PERSONALITY AND CONDUCT

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BY

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PREFACE

The primary object of social regulation is to protect the individual members of society from the invasive acts of each other. The need for this regulation is accentuated by the conflicting elements in human nature which require some adjustment. In other words, the individual must be protected in a measure from himself as well as from others.

It is, however, imperative that social regulation should not be carried too far, for it is likely to give rise to evils greater than those which it prevents. The development of personality is of supreme importance to mankind, because richness of personality contributes greatly to the joy and happiness of life. The spontaneous expression of human nature should therefore be encouraged in order to bring to fruition as far as possible the inherent potentialities of the individual. Excessive social regulation checks unduly the spontaneity of human nature.

The most drastic form of social control is exercized through the criminal law. I have discussed criminological problems at great length in other treatises. In this book I dis-

cuss more particularly social regulation through custom, public opinion, and convention, and describe the regulation of three aspects of human life.

The first aspect is the craving for noxious substances, such as alcohol and certain insidious drugs, which do much injury to many individuals, and thereby constitute a serious menace to mankind. The second is the spirit of adventure and tendency to take chances in the forms of gambling and useless and wasteful speculation.

The third is the sex life of mankind. I have devoted the largest amount of space to this subject because it illustrates almost every phase of the problems of personality and conduct. While the sex life is of the utmost value to mankind, it also contains grave dangers and gives rise to great social evils. So that the regulation of sex is a difficult and intricate problem. It requires, on the one hand, extreme caution in order to avoid detracting from the utility and value of sex to man, and, on the other hand, effective measures for the prevention of the evils which arise from sex.

MAURICE PARMELEE.

NEW YORK CITY,
March, 1918.

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PERSONALITY AND CONDUCT

CHAPTER I

THE SPONTANEOUS EXPRESSION OF HUMAN NATURE

HUMAN nature contains many conflicting elements within itself. Numerous impulses and desires do not harmonize with each other. For example, excessive hunger gives rise to gluttony, which conflicts with the desire to avoid the suffering derived from over-eating. The craving for stimulants conflicts with the dread of the evils which follow the use of stimulating substances. An impulse of anger may lead a person to smite a loved one.

In other words, incompatible instincts and emotions are aroused at the same time, or certain instincts and emotions are too strong and unruly to follow the guidance of the intellect. These facts indicate that, however marvellous the results of organic evolution may appear to us, man is not perfectly adapted either within himself or to his environment.

This lack of adjustment is due in part to the

varying environment in which man and his prehuman ancestors have lived. Geological and climatic changes from one age to another have necessitated adaptive variations in the organism. Sometimes new environmental changes have taken place before the adaptive variations could be fully attained. Many traits which were not of life-or-death importance have persisted from an age when they had adaptive value to a time when they no longer were adapted to the environment. Furthermore, migrations from one region of the earth to another have increased the degree of maladjustment to environment.

Another cause for this disharmony in human nature is the conflict between the needs of the individual for survival and self-gratification and the necessity of preserving the species. Many of the impulses of the individual would injure the species if not restrained. Thus arises the necessity for social organization and control.

Owing to lack of adaptation an untold number of species have perished from the surface of the earth. All of the numerous species now in existence, including man, constantly face the same peril. The species that survive are those in which the selective process adapts the traits of life-or-death importance enough to permit of survival. But many traits which are not of decisive importance fail to become adapted, and

thus give rise to disharmony in the impulses and desires of the surviving species and conflicting tendencies in their behavior.

Man is the only animal who is aware of this situation. By means of social organization and control he has endeavored to adjust the interests of the individual to the interests of the species. Thus have arisen the institutions of the family and the state; and public opinion, custom, and law as methods of social control. Man has also made a few attempts to harmonize the contradictory elements in his own nature. But, owing mainly to lack of self-knowledge, he has not yet had much success in these attempts.

The human intellect has enabled man to discern and recognize his impulses and desires. He has formulated ideals which have invariably been directed towards the attainment of his desires. But he has blundered greatly in his attempts to fulfill his ideals. Social organization and control have frequently been carried too far, and have thus needlessly prevented the gratification of some human desires. Ignorance and lack of forethought have often led men and women to gratify certain impulses, whereas more pleasure might have been derived in the long run from the gratification of other impulses with which these impulses clashed.

Animistic ideas in the forms of magic and religion, conventional restraints arising out of an excessive development of public opinion and

custom, and an undue concentration of social authority have repressed unduly the expression of human nature. On the other hand, men and women have frequently responded to passing or inopportune impulses when a little self-restraint would have enabled them to obtain much more pleasure from the gratification of more fundamental or more opportune impulses and desires.

The highest ideal for mankind, therefore, is the spontaneous expression of human nature in so far as such expression is possible within the limits prescribed by the necessity of preserving the species and of harmonizing the conflicting factors within human nature itself. This ideal cannot be attained until ample knowledge of the conditions of human existence and of the constituent elements of human nature has been secured. To accomplish this end much assistance may be derived from the many failures and blunders of the past and present.

Inasmuch as the spontaneous expression of human nature is the highest human ideal, it must serve as the criterion for the regulation of conduct. In other words, it should be the ethical standard and ideal. The recognition and application of this criterion in the life of mankind will constitute the greatest step towards a full and free development of human personality. The highest possible degree of spontaneity in conduct is needed in order to bring to the sur-

face and utilize every element in human nature which can contribute to the enrichment of human personality.

Many social forces and institutions have hindered the attainment of this ideal. For example, religion has always postulated supernatural considerations for the guidance of conduct which conflict with ethical principles. And as these supernatural considerations are alleged to transcend in importance the ethical principles, religion has often led to immoral conduct.

This influence of religion is admirably illustrated in the Puritanism which unfortunately has been and is more or less prevalent in this country. Puritanism usually tries to suppress spontaneity in human conduct as far as possible. The Puritan is grossly lacking in respect for human individuality and personality, and zealously endeavors to reduce mankind to a dead level of uniformity enforced by an iron discipline.

The attainment of this ideal is hampered whenever monarchical, oligarchical, aristocratic, or class control obtains the ascendancy. The spontaneous life and activity of most persons is then suppressed in the interests of the dominant few by means of a legal or military discipline.

But the most grievous hindrance to the spontaneous expression of human nature and development of personality arises from the igno-

rance and stupidity of the vast mass of mankind. The mental inertia and stolidity of most men and women results in a dead weight of convention and custom which tends to crush every attempt at variation.

The ethical criterion is, therefore, cosmic and hedonistic as opposed to the transcendental and supernatural requirements of religion. It is humanitarian and democratic and incompatible with the exploitation of the many by the few. It is based upon an understanding of human nature and a widespread diffusion of this knowledge.

Failure to apply the ethical criterion gives rise to many of the worst of human and social evils. In attempting to overcome unnecessary restrictions upon the expression of human nature, and to secure an occasional release from the crushing weight of uniformity, men and women often break over the traces and indulge in the debauchery of alcoholism, drug habits, excessive and perverted sex indulgence, gambling, etc.

Sometimes these outbreaks lead to acts of violence against other persons. Indeed, it has been asserted by some writers that war is an outbreak of this sort on a large scale. It is probably true that an incidental good result from war is that it furnishes in a measure a welcome relief from the drab uniformity of ordinary human existence.

The great human and social problem is, therefore, to furnish an ample and, so far as possible, innocuous and useful outlet for human energies. The forces of social progress should be directed towards an industrial and political reorganization of society which will permit of the highest possible degree of spontaneity in the expression of human nature, and thus free the human spirit from the bonds which now fetter it.

CHAPTER II

INVASIVE AND NON-INVASIVE CONDUCT

The first step towards describing the inevitable limitations upon the spontaneous expression of human nature is to formulate a criterion for the social control of the individual. It would be desirable to suppress all conduct injurious to mankind. But it would indeed require omniscience to be able to discern all socially harmful conduct.

Some of the acts which now appear to be beneficial to society may in the long run prove to be detrimental. Conduct which is injurious to one individual may prove to be beneficial to the remainder of society. On account of these complicated problems, there will always be disagreement with respect to the social value of many kinds of conduct. Consequently, it is often difficult to decide which acts should be subjected to social control.

A CRITERION FOR SOCIAL CONTROL

I would like to suggest as a criterion for social control the distinction between invasive and non-invasive conduct. By invasive conduct I mean acts which are obviously and unmistak-

ably harmful to others. By non-invasive conduct I mean acts which do not injure others, or, to say the least, which are not unquestionably harmful to others.[1]

It is easy to classify many kinds of conduct as either invasive or non-invasive. Injuries to the person are obviously invasive of the rights and welfare of others. Among these injurious acts are to be included not only homicide and wounding, but also acts which do injury less directly. For example, it is invasive to make unnecessary loud noises which violate the sense of hearing and put a strain upon the nervous system; or to create insanitary conditions which breed the germs of diseases which menace the public. In like fashion, to deprive other persons of their property by theft or by destruction is obviously invasive. On the other hand, most of the habitual modes of conduct are non-invasive in the sense that they do no obvious or unquestionable damage to other persons. In many cases a person's conduct may do injury to himself, but this does not necessarily make it invasive.

[1] So far as I know, no other writer has stated this criterion, though several of the writers on social regulation have doubtless had it in mind. For example, John Stuart Mill says that "the individual is not accountable to society for his actions, in so far as these concern the interests of no person but himself," but "for such actions as are prejudicial to the interests of others, the individual is accountable, and may be subjected either to social or legal punishment, if society is of opinion that the one or the other is requisite for its protection." (J. S. Mill, "On Liberty," London, 1903, p. 74.)

But there still remain many instances which are not so easy to classify. For example, it is impossible to determine whether or not certain types of conduct are invasive until science has ascertained as to whether or not the conditions created by such conduct are insanitary to the extent of menacing the health of the community. The justice of the ownership of certain property may be questioned, and this question may render dubitable the invasiveness of depriving the owner of this property. The conduct of an individual may be primarily and directly injurious only to himself, and therefore apparently non-invasive. But he may have other persons dependent upon him who will be injured indirectly by his conduct, which fact indicates that his conduct is nevertheless invasive. Furthermore, it is sometimes contended that every form of conduct which is harmful to the individual is also harmful to society, because the individual is a member of society, and such conduct is therefore invasive.

However, in spite of these doubtful cases, I believe that this criterion is the most feasible both in theory and in practise. The proposed criterion is as satisfactory theoretically as any that the limited intelligence and the relative knowledge of man can devise, and is the most practical because it is concrete and can be given the pragmatic test. In the long run it is pos-

sible to ascertain fairly accurately whether or not a form of conduct is invasive.

VIOLATIONS OF THE CRITERION FOR SOCIAL CONTROL

And yet even though this is the best criterion, it is constantly being violated. Conduct which is directly invasive is almost invariably subjected to social control. But it frequently happens that a form of conduct which is indirectly invasive is not subjected to social control for a long time because the public has not yet discovered its invasive character. For example, many insanitary practises were not repressed until science had revealed their deleterious effects.

It probably happens even more frequently that non-invasive forms of conduct are repressed. Such repression may be due to religious beliefs or moral ideas. Or it may be due to the dominance of a ruling class which is legislating in its own interest. Much of the sumptuary legislation in the past has been due to this cause. For example, a dominant class may require a subject class to wear a distinctive dress in order to indicate its servile status.

However, the principal cause for the repression of non-invasive conduct probably has been human intolerance for variation and change. After custom and public opinion have estab-

lished customary modes of conduct, most individuals resent and try to repress variations from these modes of conduct, even when such variations are not invasive and may even be beneficial to society.

As a rule the public dislikes personal idiosyncrasies, however innocuous they may be. It is constantly trying to impose its own conventional standards of taste and esthetic judgments upon the individual.[2] Thus it is that the public and its methods of social control themselves become invasive in their inexcusable and harmful repression of the individual, and thereby are guilty of gross violations of personal liberty.

There will always be violations of this criterion of social control. On the one hand, the invasiveness of certain kinds of conduct will always be obscure. On the other hand, it will never be possible to obviate entirely the deeply rooted tendency to persecute personal idiosyncrasies and innocuous variations from the conventional and the customary.

But these violations can be greatly lessened. On the one hand, the progress of science, especially in its study of mental and social phenomena, will reveal more and more fully the true nature of invasive conduct. On the other

[2] The present writer once heard the legal representative of a "social hygiene" association justify a prosecution and conviction for a felonious offense on the ground that the culprit had been guilty of a breach of "good taste."

hand, the rise in the average intelligence and knowledge due to the spread of educational facilities and the increased intercommunication between human beings will broaden the outlook and mental vision of the average human being and will thereby diminish intolerance for what is different, what is new, and what is idiosyncratic.

DIFFERENCES BETWEEN CRIME AND VICE

The more obvious of the gravely invasive acts are stigmatized as criminal by the law and are penalized. Other acts which are not so obviously invasive may or may not be penalized by the law. These acts are usually called vicious. Vicious acts like criminal acts are regarded as immoral and harmful to society. But ordinarily they are not considered immoral so generally as criminal acts, and they are not or are not supposed to be so harmful to society as criminal acts. In other words, vicious acts may be defined as the minor anti-social acts, and therefore differ in degree but not in kind from crimes.

Furthermore, vicious acts do not ordinarily affect other people directly in an injurious manner. Consequently, it is usually more or less futile to try to repress them by direct measures, because there is no one who has been immediately injured by these acts who is anxious to procure their repression. Hence it is often

feasible to act viciously in secret, so that it is almost impossible to enforce penal legislation against such conduct. Two persons may gamble on the sidewalk within a few feet of a policeman without his being aware of it. At all times much of the gambling is sure to escape the repressive legislation directed against it. Some of the criminal conduct also escapes repressive legislation, but for the reasons mentioned above this is true of a much larger proportion of the vicious conduct.

It is usually assumed also that the repression of vicious conduct is not so essential to the preservation of the existing system of society as is the repression of crime.

These are the principal differences between crime and vice. It is true that these differences are not absolute. For example, some forms of vicious conduct are more harmful to society than many crimes, and are in the long run more fatal to the existing social system. However, these differences indicate that indirect methods are as a rule more likely to eliminate vicious conduct than direct, repressive methods. These indirect methods are designed to remove the causes of vice, and will therefore have more effect in the future than in the present. Consequently, they have little immediate value, but direct repressive measures are likely to fail and may cause harm by their failure. This is a problem I shall discuss in connection with

several forms of vice in the course of this book, because in this country there is a rather strong tendency towards penalizing acts which are regarded as vicious.

In this country at present the following types of conduct are probably most generally regarded as vicious, namely, the use of alcoholic liquors; gambling; and prostitution and other forms of extra-marital sex relations. The use of alcoholic liquors was little condemned in the past. But during the last three-quarters of a century or more there has arisen a strong sentiment against their use which has been due partly to a realization of their evil effects, but also to prohibitions against their use in the Hebrew scriptures. Gambling also is opposed to a considerable extent on religious grounds, though a realization of the evil effects of gambling also plays a part. The hostile attitude of Christianity towards sex plays a very important part in the sentiment against extra-marital sex relations.

It is noticeable that all three of these types of conduct are leisure time activities, and the opposition to them is due to a considerable extent to Puritanical ideas with respect to pleasure which still have much influence in this country. The use of alcoholic liquors may not appear to be a leisure time activity. It is not such an activity in many European and other countries where alcoholic liquors are used as staple bever-

ages. But in this country they have hardly attained the status of staple beverages, and are generally regarded as indulgences. In the public consciousness gambling is usually associated with games, and is therefore regarded as a leisure time activity. Prostitution is regarded as catering to illicit sexual indulgence, and therefore to a forbidden form of pleasure.

But this is too narrow a view as to what constitutes vicious conduct. There is no justification for restricting our conception of what is vicious to leisure time activities. In its broadest sense vice includes all kinds of conduct which, while they do not injure other persons directly, are socially harmful. It should include most forms of conduct which are harmful to the individual, because whatever is harmful to the individual usually makes him less valuable to society.

If this broader conception of vice were adopted, not only would the use of alcoholic liquors be regarded as vicious, but also the use of coffee and tea, which are regarded as staple beverages in this country and yet do a good deal of harm to most of the individuals who use them. Furthermore, over-eating and under-eating and the eating of unhygienic food would also necessarily be regarded as vicious. Not only would gambling in connection with games of chance be condemned, but also gambling in the stock market or wherever it does harm to

the individual. Not only would sexual intercourse in the form of prostitution be condemned, in case it was found to be injurious, but also excessive sexual indulgence in marriage. In fact, practically every form of conduct which is harmful in any way to any one would be regarded as vicious. Consequently, over-working, idleness, working in an inefficient manner, under-sleeping, over-sleeping, lying, scandal-mongering, backbiting, nagging, etc., would be recognized as vicious.

But if the American tendency to penalize conduct which is regarded as vicious is adhered to, it would be most unwise to designate all harmful acts as vicious. In the first place, there would be endless disagreement as to what constitutes harmful conduct. The tendency of most individuals is to deny that the acts to which they are addicted are harmful. In the second place, even if universal or almost universal agreement were reached as to all kinds of injurious conduct, the problem of enforcing the repressive measures against vice would still remain. It would be necessary to make half of the population policemen in order to enforce the law upon the other half. But then there would still remain the problem of enforcing the law upon the policemen. In the absence of human agency it might become necessary to solicit supernatural assistance to accomplish this difficult task!

It is, of course, absurd to suggest so much sumptuary legislation. And yet this legislation would be excessive if every form of conduct which is harmful, in the first place, to the individual, and, in the second place, indirectly to other persons were suppressed. This is obviously impossible, and there is a limit and perhaps a very narrow limit to the extent to which harmful conduct can be repressed.

If, however, no attempt is made to repress such conduct, or it is attempted to repress only the most flagrant forms of it, it would be advisable to designate all harmful conduct as vicious. It should, however, be clearly understood that such conduct is vicious only in the sense that it is harmful primarily to the individual, but also indirectly to society.

It is, therefore, a serious problem as to when the regulation of vice by means of penal law is justifiable, if, indeed, it is ever justifiable. There are several general or more or less general objections to such regulation. In the first place, such regulation is indirectly if not directly a form of sumptuary legislation, and as such is distasteful as a restriction upon personal liberty. In the second place, owing to lack of public support it is frequently impossible to enforce such legislation. This results in a general disrespect for law, and leads almost inevitably to the corruption of the police. It is hardly necessary to point out that a dishonest

and inefficient police is a great danger to society.

In the third place, penal repression of vice is likely to give rise to confusion in the minds of the public as to the distinction between crime and vice. As to whether or not such confusion is undesirable depends largely upon the public attitude towards crime. If the public would view crime purely from a social and ethical standpoint and not from a religious point of view, this confusion might not cause any harm. But inasmuch as there is a religious element in the public attitude towards crime, it is dangerous to confuse crime and vice, because such confusion is almost certain to lead to attempts to repress vice too harshly, and to regard vice as sinful as well as immoral. When the theological concept of sin has been replaced by the social and ethical concept of immorality, it will become safe to identify vice with crime.

Hence it is that these questions must be considered before deciding whether or not it is wise to repress any form of vicious conduct by penal methods. Furthermore, it must not be forgotten that there are other methods of social control, and that public opinion is frequently a safer and more effective means of control in the long run than the penal law. It must also be remembered that the prevention of vicious conduct is of far more importance than its immediate repression, and that the work of prevention

can usually be carried on as well if not better without the aid of repressive measures.

Several forms of conduct which are or are alleged to be vicious will be described in this book. The purpose of this discussion is to ascertain the extent to which society is justified in restraining the individual and thus limiting the spontaneous expression of human nature. In other words, I shall attempt to harmonize the criterion of social control with the ethical ideal stated in the preceding chapter.

CHAPTER III

THE APPEAL OF ALCOHOL

Several poisons and drugs, such as alcohol and opium, which have medicinal value when properly applied, are widely used apart from their medical utility, thus causing much injury. Alcoholism is the greatest evil which results from the use of these poisons.

The essential element in all alcoholic beverages is ethyl alcohol, namely, C_2H_5HO. This form of alcohol is produced whenever yeast cells come in contact with the sugar of crushed fruit or fermented grain. Mankind probably discovered how to make alcohol after reaching the agricultural stage, though the discovery may possibly have been made in a few instances in the pre-agricultural stage. At any rate, evidence of the manufacture of alcohol has been found as far back as the beginning of the historical period, and among most of the primitive agricultural peoples which have been observed.

CONSUMPTION OF ALCOHOLIC BEVERAGES

It is desirable, in the first place, to ascertain to what extent alcohol is consumed as a beverage among civilized peoples. The following

table indicates the greatly increased use of alcoholic beverages in the United States between the years 1840 and 1916 inclusive:[1]

CONSUMPTION OF ALCOHOLIC LIQUORS IN THE UNITED STATES, 1840–1916

Total consumption per capita.

Year ended June 30	*Of distilled spirits Proof gallons*	*Of wines Gallons*	*Of malt liquors Gallons*	*Of all liquors and wines Gallons*
1840 ...	2.52	0.29	1.36	4.17
1850 ...	2.24	.27	1.58	4.08
1860 ...	2.86	.34	3.22	6.43
1870 ...	2.07	.32	5.31	7.70
1880 ...	1.27	.56	8.26	10.08
1890 ...	1.40	.46	13.67	15.53
1900 ...	1.28	.39	16.09	17.76
1910 ...	1.42	.65	20.09	22.19
1911 ...	1.46	.67	20.66	22.79
1912 ...	1.44	.58	10.96	21.98
1913 ...	1.50	.56	20.62	22.68
1914 ...	1.43	.52	20.54	22.50
1915 ...	1.25	.32	18.24	19.80
1916 ...	1.35	.46	17.59	19.40

This increase is due to the huge increase in the use of malt liquors, while the consumption of distilled spirits has diminished about 50 per cent. Fermented liquors cannot contain over 13 or 14 per cent of alcohol, because at that point the free alcohol in the liquor begins to poison the cells that excreted it and fermentation ceases. So that all alcoholic liquors containing over 14 per cent of alcohol are pro-

[1] See the annual reports of the U. S. Commissioner of Internal Revenue for detailed facts as to the liquor traffic in this country. The above table is taken from the "Statistical Abstract of the U. S., 1916," Washington, 1917.

duced by distillation. Malt liquors contain much less than 14 per cent on the average. American lager beer is said to contain from 3 to 6 per cent.[2] Wines vary greatly in strength, containing from 10 to 40 per cent according to the extent to which they have been fortified with alcohol. American "proof spirits" contain 40.7 per cent of alcohol by weight, and 50 per cent by volume.

Consequently, the increase in the per capita consumption of alcohol has been far less proportionately than the increase in the per capita consumption of alcoholic liquors. Hence the injury caused has not increased as rapidly as the quantity of liquor consumed, though the injury done to the kidneys and other internal organs by the huge increase in the use of malt liquors cannot be measured.

In most of the other countries the per capita consumption is as great or greater than in this country. The following table gives approximately the per capita consumption in a number of foreign countries:[3]

[2] See the "Cyclopedia of Temperance and Prohibition," New York. Since the above was written the U. S. Food Administration in November, 1917, limited the alcohol in beer to a maximum of 3 per cent.

[3] This table was compiled by Dr. J. Gabrielson for the Swedish Temperance Committee. It is quoted here from J. Koren, "Alcohol and Society," New York, 1916, pp. 260–261. According to Webb, the annual per capita consumption of alcoholic liquors in the German Empire during the years 1901 to 1905 was as follows: Spirits, 1.55 imperial gallons; wine, 1.46 im-

THE ANNUAL PER CAPITA CONSUMPTION IN A NUMBER OF FOREIGN COUNTRIES OF WHISKEY, BEER AND WINE DURING THE YEARS 1906–1910

Countries	*Whiskey (Liter 50%)*	*Beer (Liter)*	*Wine (Liter)*	*Pure Alcohol (Liter)*
Norway	2.87	18.43	1.16	2.37
Sweden	6.8	23.8	0.5	4.9
Denmark	10.44	36.16	1.50	6.82
Finland	2.31	7.82	0.61	1.56
European Russia	6.09	6.52	0.86	3.41
Turkey	7.29	104.98	4.76	7.47
Netherlands .	7.16	27.28	1.55	5.01
Belgium	5.47	220.82	5.16	10.58
Great Britain and Ireland	4.17	123.06	1.23	9.67
France	8.82	71.66	144.00	22.93
Spain	3.24	84.05	69.50	14.02
Portugal	1.04	0.95	92.58	12.59
Switzerland .	3.82	69.01	55.65	13.71
Italy	1.02	1.63	128.58	17.29
Austria-Hungary ..	8.20	34.16	19.84	7.68
Roumania ...	5.50	2.39	23.62	5.20
Bulgaria	0.62	3.48	25.74	3.02
Servia	8.10	3.68	20.21	....
Greece	1.68	0.82	100.04	13.87
British South Africa	1.91	5.71	3.76	1.85
Australia ...	4.04	55.56	2.33	5.65
New Zealand.	3.97	44.78	0.94	4.61
Japan	0.60	0.47	15.14	2.36
UNITED STATES ..	5.51	76.25	2.37	6.89
Canada	4.23	22.61	0.42	3.31
Brazil	....	1.44	4.71	....
Argentine ...	8.44	3.14	41.56	10.21
Chili	....	12.26	91.24	....

perial gallons; beer, 26.25 imperial gallons. (A. D. Webb, "The New Dictionary of Statistics," London, 1911.

The enormous cost of producing these alcoholic beverages is

CAUSES OF ALCOHOLISM

What are the causes of this huge consumption of a poison like alcohol? To begin with, it is easy to state what unquestionably are not the causes of this consumption of alcohol. The odor and the taste of alcoholic drinks doubtless are not pleasant to the vast majority of persons. Most of these beverages are bitter or sour, and are, therefore, obnoxious until a special taste for them is acquired. While they quench the thirst momentarily, they do so no better than water, and many of them create a greater thirst in the future.

Alcohol furnishes no nutriment to the body. A small amount of alcohol may under favorable circumstances be oxidized within the body and thus furnish a little heat. But even more heat is expended in eliminating the poison from the system. So that alcohol has no nutritive value whatsoever.

Alcohol is in the main not a stimulant but a depressant. It is true that it may under favorable conditions stimulate temporarily certain of the bodily organs, such as the heart. But upon most of the body at all times and upon all of the body in the long run its effect is depressing. It is, therefore, hardly necessary to add that

indicated by the fact that the wholesale value of the alcoholic liquors produced in this country is said to be about $600,000,000, almost equaling the value of the wheat crop. (See the "Anti-Saloon League Year Book for 1916," p. 76.)

instead of increasing physical and mental efficiency, except occasionally very temporarily, it is a potent force for decreasing such efficiency. Numerous tests of the muscular and other physical processes and psychological tests of the mental processes have revealed the depressing effect of alcohol. It is highly improbable that the mistaken notion, still more or less prevalent, that alcohol furnishes energy accounts to any great extent for the consumption of alcohol.

Alcohol has an intoxicant and a narcotic effect. In both of these rôles it checks the activity and lessens the efficiency of the nerve centers, especially of the higher cerebral centers which are unusually sensitive. According to the traits of the drinker and the circumstances under which the imbibition takes place, it may intoxicate in which case it has an exhilarating effect, or it may narcotize in which case it deadens some or all of the sensations, or it may narcotize after having intoxicated. In all cases it tends to deaden temporarily feelings of sorrow, discomfort and pain, in other words, all unpleasant feelings; and sometimes to substitute for them transient pleasurable feelings. In this fashion alcohol relaxes temporarily the strain of the usual and unusual trials and sufferings of life, and thus for a time affords relief. There can be little doubt that the enormous consumption of alcohol is due in the main

to these effects of this poisonous drug.[4] On convivial occasions it is desired on account of its exhilarating effect. At times of physical and mental suffering it is eagerly sought because of its narcotic effect. At all times it has a temporarily pleasant effect for those who have formed the habit of imbibing it.

Man discovered these effects of alcohol many centuries ago. But during savagery and early barbarism he was unable to manufacture alcoholic beverages at all seasons of the year and to store alcoholic liquor during long periods of time. Consequently, he was able to indulge in alcoholic orgies at the harvesting seasons when he had a plentiful supply of alcohol, but was forced to abstain at other times.

As civilization advanced it became possible for man to manufacture alcohol at all seasons of the year and to keep a large supply on hand at all times, thus making possible the continu-

[4] "Clearly, then, the essential factor in the attractiveness of alcoholic drinks is their power to intoxicate and narcotize, a conclusion which is further suggested by the fact that mankind shows a disposition to indulge in a variety of intoxicant and narcotic substances (such as opium, hashish) which have nothing but their drug effects to recommend them." (Harry Campbell, *The Biology of Alcoholism*, in "The Drink Problem of To-Day," edited by T. N. Kelynack, London, 1916, p. 16.)

"We thus trace the desire for alcohol to the inherent need of mind and body for relaxation, a need normally supplied by all the varied forms of play and sport. Psychologically it is the expression of the desire for release from the tension of the strenuous life." (G. T. W. Patrick, "The Psychology of Relaxation," Boston, 1916, p. 208.)

ous use of alcoholic beverages. Furthermore, the skill involved in manufacturing them increased, so that their quality improved and their taste was made more pleasing by means of sweetening, etc. These factors have inevitably enhanced greatly the consumption of alcohol.

It is also highly probable that the human craving for alcohol has been greatly accentuated by civilization. The progress of civilization has increased greatly the complexity of human life, and has thus aggravated the strain upon the nervous system. Consequently, it would naturally increase the demand for the relief and relaxation furnished by alcohol. Furthermore, civilized man has not as many opportunities as were possessed by primitive man for securing this relief through natural means such as hunting, fighting, and various forms of physical play, so that he is prone to seek this relief through artificial means such as alcohol.

Thus it is that civilization has, on the one hand, increased the supply of alcohol by improving the facilities for manufacturing it, and has, on the other hand, increased the demand for it by intensifying the nervous strain of human life and at the same time cutting off some of the natural modes of securing relief from this strain. Increased alcoholism is, therefore, one of the evil results from civilization along with an increase in insanity, crime, suicide, etc.

EFFECTS OF ALCOHOL

Let us consider briefly the evil effects from the use of alcohol. Some of these effects have already been suggested. As a poison and depressant it is sure to do much physical and mental injury to those who use it habitually. The injurious physical effects have been summarized by a well known English authority in the following words:—

"Alcohol plays a prominent part in bringing about degeneration of nerves, muscles, and epithelial cells; it determines the accumulation of waste products in the tissues by paralysing the tissue cells, interfering with oxidation, with secretion and excretion; it induces the proliferation of the lower forms of tissue, often at the expense of the more highly developed tissues, which in its presence undergo marked degenerative changes; it interferes directly with the production of immunity against specific infective diseases, and reasoning from analogy it may be assumed that it plays an equally important part in impairing the resistance of tissues to the advance of the active agents in the production of disease that may have already obtained a foothold in the body."[5]

[5] G. Sims Woodhead, *The Pathology of Alcoholism*, in "The Drink Problem of To-Day," pp. 81–82.

Doctor Woodhead goes on to point out further evil effects from the use of alcohol as follows:—"Alcohol lowers vitality, impairs judgment, sterilizes initiative, absorbs wealth, vitiates

A poison which is so injurious to the organism and which interferes to so great an extent with the vital processes is inevitably a powerful factor for disease and mortality. It is obviously impossible to measure accurately the extent to which alcohol causes disease and death. But governmental and insurance morbidity and mortality statistics give us a few indications. For example, on the basis of insurance data Phelps estimated that "alcohol may have been directly or indirectly responsible for about 66,000 deaths in Continental United States in 1908, or for about one in every thirteen deaths at adult ages, a figure equivalent to 5.1 per cent. of the total mortality from all causes at all ages."[6] As the use of alcohol doubtless reduces the resistance to disease in many cases where it is utterly impossible to trace its influence, its potency as a factor for morbidity and mortality must be greater than can be shown by any reliable statistics.

In view of the above facts, it is safe to assume that alcohol greatly reduces physical and mental efficiency. Many investigations have

morality, and in raising the morbidity-rate, increases the death-rate."

[6] E. B. Phelps, *The Mortality of Alcohol*, in the *Am. Underwriter*, Vol. XXXVI, No. 1, Sept., 1911. See also E. B. Phelps, *The Supposed Death-Rates of Abstainers and Non-Abstainers and Their Lack of Scientific Value*, in the *Am. Underwriter*, Vol. XL, No. 1, July, 1913; *Relative Death-Rates of Self-Declared Abstainers and Moderate Drinkers from the Actuaries' Point of View*, in the *Am. Underwriter*, Vol. XLIII, No. 6, June, 1915.

confirmed the truth of this assumption. Especially true is this of mental efficiency, because it depends even more than physical efficiency upon the activity of the higher cerebral centers, and I have already indicated that these higher nerve centers are peculiarly sensitive to the influence of alcohol. Indeed there is scarcely anything which will take the keen edge, so to speak, off the activity of the mind so quickly as alcohol, even when taken in small quantities. So that so-called moderate drinking alone is sufficient to reduce materially the efficiency of the drinker, and the total loss to human society from the consumption of alcohol in the past and the present is incalculable in extent.

CHAPTER IV

ALCOHOLISM AND DRUG HABITS

Alcohol is used more and therefore causes more harm than any other poison. But several narcotic and hypnotic drugs are habitually used by many persons and also do much injury. The principal narcotic drug is opium, and morphine is its chief derivative. Codeine and heroin are derived from morphine. Among the hypnotic drugs are veronal, trional, sulphonal, medinal, and other coal-tar products. Other habit-forming drugs are cocaine, chloral, ether, belladonna, hashish, chloroform, the bromides, etc.

DRUG HABITS

It is not easy to estimate the number of drug users.[1] Some of these drugs are expensive, so that their use is restricted to the rich. Other drugs are fairly cheap and easy to procure. Drug habits have probably increased recently in Europe and America. This is doubtless due in part to the pressure of our complex civilization

[1] Some years ago a committee of the American Pharmaceutical Association estimated that there were not more than 200,000 drug addicts in this country. This estimate was recently confirmed in a report by M. I. Wilbert, Technical Assistant, Division of Pharmacology, Hygienic Laboratory, U. S. Public Health Service. (See *The New York Times*, August 29, 1915.)

from which some individuals seek relief with the aid of drugs. But it is also due to the spread of knowledge as to the existence and effect of these dangerous substances, and to the increased facility with which they can be secured, except where restrictive and prohibitory laws against their use have been enacted and are enforced.

The immediate effect of a drug upon conduct is usually not so deleterious as the immediate effect of alcohol. But in the long run a drug habit is almost invariably more insidious and more difficult to break than alcoholism. A drug habit destroys physical and mental health and causes moral degeneracy, even more effectively than alcoholism. Since a drug does not usually excite its user in the same way as alcohol, it is not very likely to lead immediately to a crime of violence. But the constant use of drugs incapacitates the user for productive labor and destroys the moral character, so that the drug addict is more or less prone to drift into crime. Frequently the crimes are committed in the effort to secure the drug, because the craving for the drug usually dominates in course of time every other impulse and desire of the individual.

Three other substances containing poison are widely used, namely, tobacco, coffee, and tea.[2]

[2] In 1909, there were produced in the United States 1,055,764,806 pounds of tobacco. In 1915, the per capita consump-

No one of these substances is so harmful or so dangerous as alcohol or the habit-forming drugs mentioned above. The excessive use of any one of them is comparatively rare. Furthermore, all three of them, and especially tobacco, aid far more than alcohol in encouraging social intercourse, while the drugs are almost entirely lacking in this social value.

The immediate effect of neither tobacco, coffee, nor tea is bad upon the conduct, since they neither excite nor stupefy to any great extent. The careers of few persons are completely wrecked by the use of any one of these three substances. And yet their use is so widespread that their total cumulative effect doubtless constitutes a great evil. There can be no doubt that they reduce materially the capacity for achievement of the human race. They furnish additional examples of artificial methods of securing relief from strain which may do more harm than good in the long run.

CAUSES OF ABNORMAL HABITS

There are various ways in which these alcoholic and drug habits may be acquired. It is evident that if a person is ignorant of the existence of these noxious substances and is never given an opportunity to make use of them,

tion of coffee in this country was 10.52 lbs., an increase of nearly 100 per cent since 1850, and the per capita consumption of tea was 0.91 lbs. ("Statistical Abstract of the U. S.," 1915, Washington, 1916.)

he will not acquire any of these habits. If he comes into contact with these substances, he may or may not acquire an appetite for one or more of them according to his circumstances. If he is informed early in life of their dangerousness, this information may prove to be a sufficient warning. On the other hand, excessive restrictions early in youth will sometimes drive the young person to the other extreme, and will furnish him an inducement for acquiring these habits. But if the youth is not taught their harmfulness and is reared in an environment where there is more or less social pressure to indulge in the use of some of these toxic substances, he or she is very likely to acquire one or more of these habits.

There are many circumstances under which a person may acquire one of these habits later in life. A person may be engaged in an occupation in which the strain upon him is so great that he is under strong temptation to indulge in stimulants. Or great sorrow and unhappiness may lead to the use of stimulants or narcotics. Or, owing to disease or accident, suffering from great pain may furnish strong inducement to indulge in narcotics or hypnotics.

There is reason to believe that some of the drug fiends, perhaps many of them, have acquired their habits because at a time of illness they have been given drugs by physicians in order to deaden their pain or to induce sleep.

The fact that drug addiction is more or less prevalent among physicians and nurses may be of some significance in this connection. Some of the "cures" for alcoholism with the aid of drugs also result frequently in drug addiction.

Many patent medicines contain alcohol and some of them contain habit-forming drugs. Laboratory examinations have revealed the fact that some of them contain more than forty per cent of alcohol. Thus these medicines become disguised forms of alcoholic beverages and of drug compounds. Many individuals have become alcoholists or drug fiends as a result of using these patent medicines. Some of these persons have at no time been aware that they were taking alcohol and poisonous drugs, and have, therefore, not realized that they were forming one of these dangerous habits.

In some cases the acquiring of any of these habits is preceded by an abnormal mental and neural condition which is a good basis upon which the habit may grow. Just what this condition is cannot always be ascertained. But presumably the nerve centers are sensitive in such a fashion or to such a degree that a stimulant, narcotic or hypnotic, gives an unusual amount of satisfaction. Consequently, when the subject makes the acquaintance of one of these noxious substances, it arouses in him a desire and craving for it far exceeding that of the normal person, who may desire it only to a

moderate degree or not at all. Failure to overcome this craving results in the establishment of the habit, which is sure to increase the morbid mental and neural condition of the victim of the habit.

This is the true psychiatric type of the inebriate and "dope fiend," namely, the person who has acquired one of these habits because of a pre-existing abnormal condition. This condition doubtless varies considerably in different cases, and frequently resembles the physiological basis of the neuroses, insanity, and the other forms of mental infirmity. But in each of these cases is present the diathesis for the formation of these dangerous habits.

Where this diathesis is present it is almost hopeless to try to cure its victim of the habit, since neither the will of the patient nor the efforts of others are likely to overcome this craving. This thought has been expressed by a writer on alcoholism in the following words:— "The will is only a secondary factor in determining whether an individual shall be drunk or sober; a weak-willed person who is indifferent to alcohol is much less likely to drift into intemperance than a strong-willed person who is highly susceptible to its attractions. I do not wish to underestimate the influence of will-power in this connexion; a strong will may assuredly overcome a strong natural bias to inebriety, and many a man would undoubtedly drift

into intemperance but for the exercise of great self-control. Where will-power is most effective is in preventing the hitherto sober man from becoming intemperate; but once habits of intemperance have been contracted, the will is too often powerless to oppose an effective resistance. Only exceptionally does a chronic drunkard become sober through sheer strength of will."[3]

Another writer on alcoholism, Archdall Reid, has, indeed, gone so far as to affirm that there is a distinct alcoholic type which possesses this inborn craving for alcohol. He asserts that a process of selection is now going on by means of which this type is gradually being eliminated. In the following words he expresses the belief that alcohol is in this fashion a factor in the evolution of the human race:—"Since alcohol weeds out enormous numbers of people of a particular type, it is a stringent agent of selection—an agent of selection more stringent than any one disease. Many diseases have been the cause of great and manifest evolution. It follows that alcohol which has been used by many races for thousands of years should be the cause of an evolution at least as great as that which has been caused by any one disease."[4]

Reid's theory has not been proved, and it is

[3] Harry Campbell, *The Biology of Alcoholism*, in "The Drink Problem of To-day," edited by T. N. Kelynack, London, 1916, p. 21.

[4] G. Archdall Reid, "Alcoholism," London, 1901, p. 86.

probably erroneous to recognize a distinct alcoholic type. Alcoholism and the drug habits are among the manifestations of a polymorphic morbid heredity. In many respects they resemble some of the other manifestations of a morbid heredity, such as the neuroses, certain types of insanity, several forms of criminal conduct, such as kleptomania, etc. Each of these manifestations reveals congenital physical and mental weaknesses. They all act and react upon each other and upon the weaknesses which underly them.

The treatment and prevention of these dangerous habits involve complicated medical and psychological problems which cannot be discussed at length in this book. In the following chapter will be described the regulation and control of these habits in so far as these habits are directly or obviously invasive in their effects. All of these habits are more or less invasive. This is peculiarly true of alcoholism. The alcoholist constantly menaces his fellows with acts of violence and other directly invasive conduct.

ALCOHOLISM AS A CAUSE OF POVERTY AND CRIME

Perhaps the most striking, though not necessarily the worst, results from the use of alcohol are to be found in the forms of poverty, pauperism, and crime. It is impossible to measure accurately the influence of alcohol. Furthermore,

in the cases of poverty and pauperism it is frequently difficult to ascertain whether the use of alcohol was originally a cause or a result.

In many cases there is reason to believe that it was the misery of poverty which led to the use of alcohol. But however this may be, the use of alcohol invariably accentuates the degree of destitution and drags its user down into still lower depths of misery. The records of the public and private philanthropic organizations furnish ample evidence of the large number of cases in which alcohol is a contributing when not the original cause of poverty and pauperism.

The influence of alcohol in causing crime is usually more immediate and direct than in the causation of poverty and pauperism. By its effect upon the nervous system, and especially the higher cerebral centers, it tends to weaken the powers of judgment and of self-control, thus lessening materially the responsibility of the individual for his conduct.

Consequently, it becomes easy for the person under the influence of alcohol to commit acts which he would never think of committing when entirely free from this baneful influence. Under these conditions the individual is much more likely to commit crimes of violence than other kinds of crimes. The influence of alcoholic intoxication upon crime, and especially in caus-

ing crimes of violence has been stated in the following words:—

"Considering the several categories of serious delinquency, we have found that alcoholic intoxication is answerable for about 60 per cent of indictable crimes of violence, and for a rather higher proportion of minor offences of the same class; that it is probably the cause of nearly half the crimes of lust; and that, on the other hand, it makes no appreciable contribution to crimes of acquisitiveness. And we have further seen that, while in one form of sexual crime—rape on adults—the alcoholic condition which leads to the act may be no more than simple drunkenness, all the other varieties of delinquency due to alcoholism depend almost entirely on the chronic intoxication."[5]

But the indirect effects of alcohol in causing crime are perhaps even greater than its direct effects through intoxication. The habitual use of alcohol resulting in chronic alcoholism incapacitates many individuals for useful labor, thus rendering them incapable of supporting themselves, and weakens and gradually destroys their moral character. The combination of unemployment and moral degeneracy is very likely to lead the inebriate into vagabondage and mendicancy, and eventually to thieving and

[5] W. C. Sullivan, *Alcohol and Crime*, in "The Drink Problem of To-day," p. 170.

other forms of criminality. The influence of alcohol upon criminality in general has been well summed up as follows:—

"The psychic features of chronic alcoholic intoxication which are of especial criminalistic importance are, first, the ethical leveling which is here preëminent as long as the intoxication lasts, while it is temporary during acute intoxication; second, the lowering of the capacity for physical and mental work; third, alcoholic psychoses. The first two effects of chronic intoxication are regularly met with; the last occurs only in a relatively small number of chronic alcoholics. It goes without saying, that the effects of acute intoxication on the emotions and on the psychomotricity accompany also chronic alcoholism, especially when it is complicated by an acute debauch. The connection between chronic alcoholism and criminality is frequently brought about through the individual's incapacity to satisfy the exigencies of life on account of the social incapacity caused by alcoholism. Often the development of criminality in chronic alcoholics takes the following course: The capacity for work is diminished, thus reducing the individual's ability to earn his livelihood, and bringing him to a lower social level; soon the individual can no longer supply his needs by means of work; the temptation to procure by criminal acts that of which he has need is not

late in coming, and when it does arrive the individual succumbs to it, the moral degeneracy having already leveled the road to crime. In these cases, the crimes are often of an economic order, such as thefts, swindling, forgery.

"No pronounced difference between acute and chronic alcoholic intoxication exists from the point of view of the dominant forms of criminality, a fact which is not surprising since chronic intoxications present themselves often under the form of a series of acute intoxications. Frequently one finds also with chronic alcoholics, brutal crimes such as assault, murder, assassination, attempts to kill. Nevertheless, that which is the chief difference between the criminality of acute intoxication and that of (the) chronic one is that in the latter, economic crimes play a much greater rôle than in the former."[6]

It is impossible to measure accurately the influence of alcohol upon criminality. The following table indicates how many of the persons tried before the *tribunaux correctionnels*, namely, the lower criminal courts, in France in 1909 were addicted to the use of alcohol:[7]

[6] O. Kinberg, *Alcohol and Criminality*, in the *Journal of Criminal Law and Criminology*, Vol. V., No. 4, November, 1914, pp. 573–574.

[7] Adapted from a table given by M. Yvernès, *L'alcoolisme et la criminalité* in the *Archives d'anthropologie criminelle*, Vol. XXVII, January, 1912, p. 23.

ALCOHOLISM AND CRIMINALITY IN FRANCE, 1909

Offenses	*No. of Persons Tried*	*No. Addicted to Alcohol*	*Per cent Addicted to Alcohol*
Disorderly conduct *(Rébellion et outrages)*	16,486	6,927	42.0
Assault and battery *(Coups et blessures)*	34,199	9,760	28.5
Sexual crimes *(Délits contre les mœurs*	4,937	837	16.9
Mendicancy	8,163	1,167	14.2
Theft	38,662	5,377	13.9
Vagabondage	12,028	1,842	15.3
Other offenses	75,224	7,508	9.9
Total	189,699	33,418	17.5

However, it is probable that the moderate use of alcohol by a large number of persons is doing more harm than the excessive use of it by a relatively small number of persons, and that the baneful effect of this moderate use upon the community at large is a greater social evil than the pauperism and criminality produced by the excessive use. Indeed, it is highly probable that the general use of alcohol has acted to a small extent at least as a check upon social progress by lowering physical and mental efficiency and thus diminishing the capacity for intellectual achievement in particular. No other result could be expected from a widespread and long continued poisoning of the race.

CHAPTER V

THE REGULATION OF INTEMPERANCE

By intemperance I mean the excessive and injurious use of any substance, solid or liquid, which is ingested by the human body. Any food or beverage may be used to an excessive degree. As a matter of fact, much harm is caused by the intemperate use of food. But there is not the space in this book to describe all forms of intemperance. In this chapter I shall discuss the regulation of the use of poisons and drugs, especially alcohol, in so far as they are invasive in their effects.

In the two preceding chapters I have described the evil results from the use of alcohol. I have shown that from it result much crime, pauperism, and other grave social evils. Consequently, even though the use of alcoholic beverages may seem to be a purely personal matter, it is in reality most invasive in its character, owing to the vast amount of injury alcoholism causes persons who do not use alcohol.

It is, however, not an easy matter to regulate the use of these beverages. I have already described the powerful forces which impel men to crave alcohol. These forces are too deeply

rooted to be eliminated by repressive measures. Penal prohibitions against the use of alcohol constitute sumptuary legislation, and are therefore objectionable. Most of this legislation has failed entirely, and has often done far more harm than good. So that it is essential to act with great caution when attempting to regulate the liquor traffic.

PROHIBITION OF THE USE OF ALCOHOL

The two principal methods which have been used in this country to regulate the sale and consumption of alcohol have been statewide prohibition and local option.[1] Since the first prohibition law was enacted in Maine in 1846 several states have gone "dry" and then have become "wet" again. In recent years many of the Southern and Western states have enacted prohibition laws, so that at the time of the present writing (1917) twenty-three states are "dry."[2] These twenty-three states include about half of the area of continental United States, exclusive of Alaska, and over one-third

[1] Liquor legislation in this country has been described in various books, among which are the following:—F. H. Wines and J. Koren, "The Liquor Problem in Its Legislative Aspects," Boston, 1898; C. M. L. Sites, "Centralized Administration of Liquor Laws in the American Commonwealths," New York, 1899.

[2] These states are Alabama, Arizona, Arkansas, Colorado, Georgia, Idaho, Iowa, Kansas, Maine, Michigan, Mississippi, Montana, Nebraska, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Virginia, Washington, and West Virginia.

of the population. It is impossible to state accurately how much of the remaining area and population is "dry" under the local option laws.

For the past fifteen years the per capita consumption of alcohol in this country has remained about the same, notwithstanding the fact that during these years many states have adopted prohibition and numerous local communities have done the same under local option laws. It is rather discouraging that so much prohibition legislation has not yet diminished greatly the consumption of alcohol. But most of this legislation is very recent, and perhaps has not yet had enough time to have the desired effect.

A number of comments may be made upon statewide prohibition. In the first place, the attempts to secure prohibitory legislation, whether successful or not, have caused an enormous amount of trouble in American politics. This has been due to the fact that the liquor traffic is exceedingly profitable. Consequently, the liquor manufacturers and liquor dealers have naturally opposed such legislation with the utmost vehemence. They have organized and have contributed large sums for this purpose. Much of this money has been spent in bribes, hushmoney, and in contributions to the funds of political parties. Thus they have done much to corrupt our state politics by their unscrupulous expenditure of money.

But an even greater evil which has arisen out of the agitation over prohibitory legislation has been the extent to which the liquor issue has been complicated with other important issues. Inasmuch as in many states the liquor vote has been large and well under the control of the liquor interests, it has been possible for the liquor representatives to intimidate and bulldoze those interested in other issues to give them their support in return for the support of the liquor gang. Thus the liquor interests have decided the fate of many important measures not even remotely connected with the liquor question. In fact, however desirable prohibition may have been, in many cases it has been doubtful whether it was worth the price which has been paid in the demoralizing effect of the liquor agitation upon the decision of other public questions.[3]

In the second place, wherever statewide prohibitory legislation has been enacted it has never been possible to enforce it universally and sometimes scarcely at all. As a general rule, such legislation has been enforced fairly suc-

[3] "In every state legislature the liquor question stands athwart all other legislation. Whether a particular bridge shall be built or public highway constructed is often determined by the fact that the wets are for it in a dry legislature. The short ballot, civil-service reform, woman suffrage, all have lost or won and are winning or losing as they pick their friends between the wets and drys." (N. D. Baker, *Law, Police, and Social Problems*, in the *Atlantic Monthly*, Vol. CXVI, July, 1915, p. 18.)

cessfully in the rural districts, but rarely ever has it been possible to enforce it to any great extent in the urban communities. Invariably it has been passed by the support of the rural voters and has been resented and defied by the urban population. Consequently, the law has been ignored in the main in the cities,[4] and has been an effective instrument for corrupting the police.

The same objections apply to a smaller extent to local option. In local option the prohibition of the liquor traffic is determined upon by the local community, such as the county, the township, the city, or a sub-division of a city. Inasmuch as the issue involved is much smaller in a local option election, the liquor interests do not usually expend as much money or put up as strong a fight to prevent prohibition. Consequently, local option legislation does not usually demoralize politics as much as statewide prohibition.

Inasmuch as public sentiment is almost invariably in favor of the enforcement of a local option law, it is usually enforced fairly well, and there is not as much opportunity for the corrupting of the police and other local authorities. In this respect local option is ordinarily much preferable to statewide prohibition.

[4] During the last few years the present writer has witnessed the public sale of alcoholic liquors in cities of several of the prohibition states. Among these states were Maine, Georgia, and Tennessee.

However, in the case of both statewide prohibition and local option it is usually possible for the consumers to import liquor, and thus to nullify the law to a large extent. This is more feasible in the case of local option because a "wet" territory is almost invariably near at hand. In fact, it sometimes happens that a consumer of alcohol in a "dry" region is tempted to drink more than if he was residing in a "wet" region, because he is forced to keep a large supply on hand in his own house. A few states are trying to prevent the importation of liquor by means of prohibitory legislation. The Federal Government has tried to help these states by a so-called "bone dry" law. But this requires an odious inquisition over the baggage of interstate travelers, and it is therefore difficult to enforce such laws.

A third possibility in the way of prohibitory legislation, which has not yet been tried in this country, is national prohibition. It is difficult to predict what would be the outcome of such legislation. If a Federal law was enacted forbidding the manufacture and sale of alcoholic beverages in this country, and also forbidding their importation from other countries, it would probably not be so easy to secure these beverages as it is now in the states and local communities in which prohibition prevails.[5] But it is

[5] Since the above was written Congress, in December, 1917, proposed to the States an amendment to the Federal Consti-

impossible to foretell how successfully the Federal government could enforce such a law in many cities and other communities in which there is still a strong sentiment in favor of the liquor traffic. Since the beginning of the European War, national prohibition has been adopted in Russia and in a partial form in some other countries. But it is still too early to ascertain how successful this prohibition is destined to be.

As I have already stated, twenty-three of the states comprising about half of the area of this country and including over one-third of the population have statewide prohibition. A considerable portion of the remainder of the country has prohibition under the local option laws. In the "wet" territory the liquor traffic is partially restrained in one way or another by the law. Unfortunately, however, the consumption of liquor goes on apace, in spite of all this prohibitory and restrictive legislation.

OTHER METHODS OF REGULATING ALCOHOLISM

In a few states has been tried the so-called "dispensary" system. Under this system the retail trade in liquor is conducted through dispensaries managed by the state or local gov-

tution prohibiting the liquor traffic in this country. If this amendment is ratified by three-fourths of the States within seven years, it will become a part of the Constitution.

ernment.[6] It was tried first in South Carolina, and later in Georgia, Alabama, North Carolina, and South Dakota. All of these now are prohibition states, which fact suggests that the dispensary system is an easy stepping stone to statewide prohibition. The object of the system is presumably to discourage the use of liquor. But when the revenue from the liquor traffic is applied to lower the taxation rates, it is the tendency of the government to encourage as much as possible the sale of liquor. If this revenue could be expended in providing counter-attractions to the saloon, the dispensary system would be more effective as a check upon the consumption of liquor.

The state monopoly of the liquor traffic has been tried in several European countries.[6] In Russia previous to prohibition there existed the governmental vodka monopoly. In Sweden and Norway the sale of spirits is under the control of the local communes which may form companies (*samlags*) for this purpose, if they so desire. This system, which was first tried at Gothenburg, has reduced greatly the consumption of spirits. It does not control the sale of beer and wine.

Over practically all of the "wet" territory in this country prevails the high license system.

[6] See J. Rowntree and A. Sherwell, "The Temperance Problem and Social Reform," 7th edit., New York, 1900; J. Koren, "Alcohol and Society," New York, 1916.

Under this system the liquor dealers are required to pay large sums for the privilege of selling liquor. This provides a large revenue for the federal, state, or local government. It acts as a check upon the dealer, since he may be deprived of his license if he violates the law. Furthermore, the holders of the licenses are usually anxious to aid the officers of the law in suppressing illicit selling of liquor.

The liquor traffic is also restricted by night and Sunday closing laws. In many communities it is impossible to enforce these laws, especially the Sunday closing, because of the popular sentiment against them. In many cities there is a large population of European birth which favors the Continental Sunday with opportunities for recreation in drinking places and elsewhere.[7] Fortunately for this country this element in the population does not sympathize with the Puritanical New England Sunday which destroys the joy of living for one day of the week. Unfortunately this Puritanical in-

[7] For example, at the time of the present writing (1917) in New York City many of the saloons are open on Sunday in defiance of the law. To be sure, the decorum of this so-called "holy" day is appropriately observed by closing the front door and excluding customers from the bar, so that the sale of liquor cannot be seen from the outside. But in the back room may gather all who wish to indulge. And yet the police and other municipal authorities of New York City can hardly be blamed for this wholesale violation of the law. It would probably take more than the whole police force to keep the saloons continuously closed on that day, while the police have other important duties to perform.

fluence still prohibits on Sunday many kinds of recreation which are beneficial as well as some that are harmful. The situation thus created leads to widespread violation of the law and corruption of the police.

Legal regulation of drinking by minors and of excessive drinking exists over most if not all of the "wet" territory. The prohibition of the sale of liquor to minors doubtless is an excellent regulation, and should be enforced as stringently as possible. The law against excessive drinking is very drastic in some places, as, for example, in Massachusetts where drunkenness itself is a crime. Such a law is absolutely inexcusable because it is an invasion of individual rights and because it stigmatizes relatively inoffensive persons as criminals. Many such persons have been degraded and have become criminals largely as a result of being sent to prison for drunkenness.[8] But in most places only public intoxication and the disorderly conduct and vagrancy resulting from it are criminal.

Inebriety doubtless requires a good deal of legal restraint, but this should not be penal in its character. Rarely ever is it possible to cure an inebriate by means of incarceration in a prison or by fining. What is usually needed

[8] See my "Inebriety in Boston," New York, 1909, for a description of these conditions in the largest city in Massachusetts.

is sequestration in an asylum or hospital for inebriates, or in an industrial or farm colony. By this means the habit can be cured in most cases. Where there is a physiological diathesis towards alcoholism, permanent sequestration in an asylum may be necessary if the patient is a menace to the welfare of others. I have outlined a scientific scheme of treatment for inebriates in another work.[9]

It is difficult indeed to decide which is the wisest method of curbing the liquor evil. At present the methods in use are in a state of flux and constant change. So long as the conditions of modern life stimulate a strong desire for alcohol it is doubtful if it will be possible to abolish it entirely. The nervous strain of economic uncertainty, overwork, poverty, many kinds of disease, and various other forms of needless misery are sure to give rise to the craving for stimulants such as alcohol. Consequently, the absolute prohibition of the use of alcohol all at once would doubtless lead to a good deal of illicit distillation and to the substitution for it of more deleterious substances.

It is therefore probably wiser not to adopt drastic prohibitory measures, but to strive mainly to remove the causes of alcoholism. There is all the more reason to hope that gradual measures will be effective in the long run because certain preventive factors are having

[9] See my "Inebriety in Boston."

more and more influence. In the industrial world it is coming to be recognized that the use of alcohol is not compatible with efficiency. Healthful recreations are taking the place of alcoholic indulgence. Thus the saloon, which has been to a large extent a poor man's club, is rapidly losing its baneful influence. So that the liquor evil will in course of time die a natural death.

THE SUPPRESSION OF DRUG HABITS

The habitual use of narcotic and hypnotic drugs is so much more baneful to the individual than alcoholism that it should be repressed with much more drastic measures. The sale of these drugs should be permitted only upon the written order of a physician, dentist, veterinarian, or other duly authorized person of scientific training. Any unlawful sale should be severely punished. The manufacture and importation of these drugs should be carefully supervized by the government in order to forestall as far as possible their illicit sale.

But the unfortunate victims of these poisonous drugs should not be punished by the penal law. Imprisonment will not ordinarily cure them of these insidious habits and is almost certain to injure them in other ways. Where, however, there is little hope of curing them otherwise and they are a menace to others, they should be sequestered in hospitals and asylums

where they will receive scientific care and treatment. Furthermore, every effort should be directed towards preventing the overwork, diseases, nervous strain, and misery of all sorts which give rise to these baneful habits.

CHAPTER VI

THE TYPES OF GAMBLING

Mankind possesses a deeprooted tendency to take risks which manifests itself in the spirit of adventure and is strengthened by the desire to gain something. This human tendency has been of great social value, because it has led the way to a vast amount of human achievement. Without the impulse to venture many enterprizes would not have been undertaken which have produced much wealth for mankind.

On the other hand, this tendency has caused a certain amount of loss. Many enterprizes have been undertaken which have proved to be unproductive. Furthermore, the venturesome impulse has often induced individuals to attempt to gain something when there was no possibility of producing anything. In other words, a chance has been taken on winning something from another person where the loser will lose as much as the winner will gain. Gambling consists in taking the risk of winning from or losing to another person without creating anything of human and social value.[1]

[1] Hobson has defined gambling as follows:—"Gambling is the determination of the ownership of property by appeal to

THE FORMS OF GAMBLING

The purest form of gambling is where no skill whatsoever is involved but the outcome of the wager depends entirely upon chance, as in the tossing of a coin. In other forms of gambling more or less skill is involved, as in some games of cards; in betting upon the result of an athletic event or an election, where knowledge, foresight, and judgment may influence favorably the outcome of the betting; etc. When skill becomes the predominating factor in determining the outcome, the aleatory element disappears almost entirely.

Evidences of gambling can be found as far back as historical records extend, as, for example, in ancient Egypt, Greece, and Rome, among the Hebrews, etc.[2] Furthermore, this custom has been found among practically every primi-

chance." (J. A. Hobson, *The Ethics of Gambling*, in "Betting and Gambling," edited by B. S. Rowntree, London, 1905, p. 1.) In this definition the unproductiveness of gambling is not specifically stated, though it is doubtless meant to imply it.

A legal definition of gambling is furnished in the following words:—"There are two essential characteristics of a wagering contract: first, an unascertained event; secondly, the parties to the contract must stand respectively either to gain or lose, according as the uncertainty shall be determined in the one way or in the other." (W. Coldridge and W. F. Swords, "The Law of Gambling, Civil and Criminal," 2nd edit., London, 1913, p. 1.)

[2] Many treatises furnish accounts of gambling in the past. The following are specially devoted to the history of gambling: —A. Steinmetz, "The Gaming Table," 2 vols., London, 1870; J. Ashton, "The History of Gambling in England," London, 1898.

tive people which has been observed. It is probable that it originated soon after the evolution of language facilitated mental intercourse and the exchange of ideas between human beings. It has been and is widespread among the civilized peoples of Europe and America.

It would be utterly impossible to enumerate all the different kinds of gambling. Wagers have doubtless been laid with respect to nearly every conceivable contingency in human life. They are common with regard to the weather; the outcome of military, political, and economic events; all kinds of games and sporting events; as a result of many contrivances which are devized for the special purpose of encouraging gambling, such as lotteries, wheels, slot machines, dice games, etc.

The forms of gambling may be classified in at least two different ways. The first classification is of gambling in leisure time recreational activities, and gambling in business affairs. Leisure time gambling takes place in connection with cards and other indoor games, racing and other outdoor sports, elections and other events, etc. Business gambling is in the form of speculating in securities and produce in stock and produce exchanges and elsewhere, and sometimes in insurance and certain other lines of business. Psychologically the distinction between leisure time and business gambling is not absolute and they frequently shade into

each other. Many persons taking part in leisure time gambling are impelled largely by the economic desire to gain which predominates in business gambling. Some persons wander into business gambling in search of recreation.

The second classification is of amateur gambling, and professional, commercialized gambling. Amateur gambling includes all of the gambling of those who do not make a profession of gambling, whether it be in leisure time or in business gambling. It includes most of the leisure time gambling in card games, such games as "pitch and toss," gambling in connection with sporting events, much of the betting on elections, etc. Under this head also may be included "raffles" conducted by churches, philanthropic societies and other organizations, even though these lotteries are so devized that they are certain to make money for the organization. But most of the gambling which they encourage among their adherents may be accurately described as amateur in its character. Under amateur gambling may also be included the gambling of the persons who stray into the stock and produce markets, and there usually become the "lambs" to be shorn by the professional, business gamblers.

PROFESSIONAL GAMBLING

Professional, commercialized gambling includes all of the gambling of those who make a

profession of gambling and engage in it solely for purposes of gain. Some of their gambling is in connection with the leisure time gambling of amateurs, and the rest of it is in business affairs. Among the professional gamblers are the card sharps; the owners and managers of gambling casinos; the operators of gambling machines, such as roulette wheels, wheels of fortune, slot machines, etc.; the bookmakers and touts who organize the betting at horse races; the managers of racing pool rooms; the organizers of dice games, lotteries, etc.; many of the persons placing election bets on the "curb"; many of the speculators in the stock and produce markets; etc.

Much of the professional gambling is carried on with a certainty or almost a certainty of gaining something. To this extent it is not genuine gambling for the professional, but is so only for the amateur gambler whom he is fleecing. The only aleatory element which remains for the professional is with respect to the amount which he will succeed in securing from his victim.

This so-called gambling of the professional is usually regarded as honest if the amateur is aware before he enters the game that the professional who has organized it is sure to win, and yet is willing to participate in it to enjoy the excitement of the game and in the hope of winning from his fellow amateur gamblers. This

is the situation in the well managed gambling casinos where it is universally known that the bank is sure to win in the long run, and frequently at a pre-determined fixed rate.[3] Thus the professional becomes, in effect, the organizer of a gambling game to meet the widespread demand for gambling facilities.

But most of the so-called gambling of professionals is not "honest," in the conventional sense, because the amateur does not know that the professional is playing a "sure thing." Thus card sharps lie in wait in hotels, on transatlantic liners, and in other public places, and hoodwink their victims by passing themselves off as amateurs interested only in a "friendly" game. Operators of gambling machines "fix"

[3] It is said that at the casino in Monte Carlo each of the eight gambling tables averages a daily profit of about $2500. (B. S. Rowntree, "Betting and Gambling," London, 1905, p. 181.)

The following quotation gives further details regarding the profits of the Monte Carlo casino:—"We have seen that in a year it has won £1,620,000 more than it has lost, but it loses sometimes. To lose £4,000 in a day is quite a common experience. The highest loss the bank—that is, the casino—has ever experienced in one day is, in round figures, £16,000. But it is on record that in the course of two or three especially unlucky days the casino lost £32,000. On the other hand, the zero helping, the bank usually wins, and when especially fortunate its winnings are larger than those of the public. While the highest record credits the public with having won in a single day £16,000, there exists in the history of the casino the record of a day when it is credited in the Government accounts with having won £36,000. That is the largest profit realised in one day since the casino has been in existence." (A. Smith, "Monaco and Monte Carlo," London, 1912, pp. 343–344.)

them so that the player can rarely if ever win anything. Bookmakers circulate false information before races. "Wire tapping" pool rooms are organized to which false information is sent. The promoters of dice games load the dice. All kinds of confidence games are carried on under the guise of gambling.

In the stock and produce markets false information is spread to stimulate the buying or selling of certain securities or commodities. Advance information with regard to the declaration of dividends is furnished to certain brokers. "Wash sales" in which the same security or commodity is both bought and sold through different brokers by the same individual are carried on for the purpose of deceiving the public and stimulating active dealing in the stock or commodity.

It is obvious that all of these methods and many others which might be mentioned are fraudulent and deceitful in their character. The professionals who use them are cheats and thieves, frequently more contemptible in their nature than ordinary thieves, because of the underhanded methods used by them. This is so-called "dishonest" professional gambling, which is not genuine gambling, but fraud and cheating. The great majority of professional gamblers are in reality criminals who are preying upon society by taking advantage of certain human weaknesses.

GAMBLING IN THE UNITED STATES

The forces for gambling in the United States have been very strong. This is doubtless due in part to the fact that the population is made up largely of a pioneer stock possessing much of the spirit of adventure. Furthermore, the new conditions and the vast array of natural resources upon this continent have offered innumerable opportunities for risking one's fortune. The result has been an excitable and eager people ready to risk almost anything in an undertaking in the hope of gain.

But leisure time gambling also has been very prevalent in this country. In the early days of our national history lotteries were numerous, frequently being held to aid in the construction of public buildings, churches, etc.[4] A big lottery persisted for many years in Louisiana and

[4] McMaster, writing of this time, says that "it was with the money collected from the sale of lottery-tickets that Massachusetts encouraged cotton-spinning and paid the salaries of many of her officers: that the City Hall was enlarged at New York, that the Court-House was rebuilt at Elizabeth, that the library was increased at Harvard, that many of the most pretentious buildings were put up at the Federal city." (J. B. McMaster, "A History of the People of the United States," New York, 1886, Vol. I, p. 588.)

McMaster collected at random from a few of the newspapers for the year 1789-1790 a list of lotteries and their purposes, of which the following are a few samples:—Windsor County Grammar School Lottery, Vermont; Leicester Academy Lottery, Massachusetts; Providence Great Bridge Lottery, Rhode Island; Petersburg Church Lottery, Virginia; Alexandria Presbyterian Church Lottery, Virginia; Hebrew Lottery to remove debt on synagogue, Pennsylvania. (*Op. cit.*, pp. 588–589.)

was patronized from all parts of this country. Gambling has been widespread among the miners and lumbermen in the West. There have been many well known gambling resorts. Until comparatively recently Saratoga was notorious the world over. Horse racing and pugilism have stimulated a large amount of gambling. The popularity of poker in this country is an indication of the strength of the gambling spirit, while in recent years bridge has rivaled poker in popularity, especially among the women. Lotteries are frequently held by churches and philanthropic organizations under the euphemistic title of "raffles." When religious and conventional moral scruples interfere with the use of money in gambling at cards or in lotteries, "prizes" are given which have been purchased with the money. Elections and athletic events have stimulated an enormous amount of gambling in this country.[5]

Professional gambling also has been rampant in this country. Much of it has been of the most fraudulent type. Confidence men, card sharps, bunco steerers, and tricksters of all kinds have found many gullible victims for their vile traps. Unfortunately they have been aided

[5] It was estimated in the current newspapers that from six to eight millions of dollars were wagered on the presidential election of 1916 in New York City alone. It was reported that one man risked half a million dollars on the outcome of the election, and another man two hundred thousand dollars. It is, of course, impossible to estimate even roughly the total amount of betting on the election throughout the country.

and abetted by the fact that smart trickery, when successful, has been accorded a sort of esteem by a portion of the American public.

GAMBLING IN EUROPE

If we turn to a comparison of gambling in the United States and in Europe, certain differences may be noted. In all probability there is less business gambling in Europe than in this country. At any rate, the Europeans frequently accuse the Americans of being greater business gamblers.[6] This difference is to be expected in view of the differences in economic conditions. The economic institutions of Europe are much older and probably more stable than those in this country. The European natural resources were exploited long before those of this continent, and there is much less opportunity for business enterprize there than here.

[6] "The American people are regarded by foreigners as the greatest of all speculators. The opportunities for great accumulation of wealth, the boldness which characterizes the ventures of the leaders in the business world, and the brilliant success with which their undertakings are often carried out, have excited, if not the admiration, at least the wonder of all observers. Especially has attention been widely called to the more distinctive speculative operations of the stock and produce markets. Speculation proper, as well as the speculative spirit of vast industrial enterprise, has had its most striking development perhaps in the United States. The greatest speculation in produce which the world has ever seen has grown up recently in Chicago, while a speculative market of almost unequaled magnitude is found in the Stock Exchange of New York." (H. C. Emery, "Speculation on the Stock and Produce Exchanges of the United States," New York, 1896, p. 7.)

Economic status is much more rigid there than here. The law probably regulates business gambling more effectively in Europe than in this country. All of these differences would naturally tend to increase the opportunities for business gambling in this country over those in Europe.

It is more difficult to compare the extent of leisure time gambling on the two continents. It is believed by many Americans that there is much more of this type of gambling in Europe than here. This belief probably arises out of the fact that gambling is officially recognized in many of the European countries and that some of their governments derive profits from the gambling. For example, in France the government requires that all the betting at the race courses be carried on through the *Pari Mutuel.* This is a gambling syndicate which is forced to share its profits with the *Assistance Publique,* namely, the public charities. In Italy a lottery is conducted by the government. In the principality of Monaco all of the expenses of the government are borne by the gambling casino at Monte Carlo.

The official recognition and exploitation of gambling in Europe has led many Americans to believe that European governments are not so alive to the evils of gambling as our own government, and that, therefore, Europeans are more addicted to leisure time gambling than

Americans. As a matter of fact, this belief does injustice to these governments. Most of them have tried to suppress gambling in the past and have found it impossible. They have therefore adopted the policy of regulating gambling in order to eliminate fraud and cheating, and have devoted some of the revenue derived from it to public uses.

CHAPTER VII

THE GAMBLING IMPULSE AND REGULATION OF ITS EVILS

The gambling impulse is a complex psychological phenomenon. The principal mental factor underlying gambling doubtless is a belief, or, to say the least, a faith, in luck. But this does not seem to be a belief in mere chance. If it were, it would soon lead to a recognition of the mathematical law of probability, and this would discourage the gambler from gambling. It would be evident that in the long run the gains and the losses from gambling in general equalize, so that gambling is a profitless undertaking.

THE ANIMISTIC BASIS OF GAMBLING

It is, on the contrary, an anthropomorphic belief in luck, namely, a belief in a personified luck which will some time or other bring fortune to the gambler. So that the faith of the gambler is another aspect of the animistic and anthropomorphic tendency of the human mind which displays itself also in magic and religion.[1] Indeed, religion itself is sometimes de-

[1] One writer on the psychology of gambling has described the gambler's faith in luck in the following words:—

"It is not blind chance which now decides, but there is a

fined as a belief in luck. Furthermore, many of the gambling implements of primitive men have had their origin in methods of divination, and some of them are still used for both purposes.[2] For example, playing cards are used to foretell the future even in civilized countries.

In view of the animistic and anthropomorphic

willing power. Lawlessness is put aside for fate, law or will. This is the very meaning of luck, the substitution of a conscious, determining force or will, for an indeterminable, precarious, headless chance,—law in place of lawlessness. The contest now becomes one between the players, each man's luck, against each other man's. It is not now a question of blind chance, but this—do you or I stand better with the deciding power, who wills? This, says Brinton, is the one feature underlying all religions—viz., that the great force of the world is a personal will. This also is the feature which lies deepest in the gambler's consciousness. The attraction toward this dark, inscrutable power, plus a personal interest, is the background motive. One hopes by gripping the very ground of things to obtain the conviction of certitude. It so fascinates, one is impelled to experiment with it, test its relation to his own personality. It is a semi-unconscious desire — one ventures when he could not explain the reason." (C. J. France, *The Gambling Impulse*, in the *Am. Jour. of Psychology*, Vol. XIII, No. 3, July, 1902, p. 398.)

In this connection may be mentioned Pascal's "wager of life." Pascal was both theologian and mathematician, but in this instance he acted as a theologian and not as a mathematician. He asserted that you may bet either that there is a god or that there is no god. But, he argued, you will lose nothing by betting on God and you may win everything, so why not bet on God? It is evident that this is not pure gambling, because, with the bias of the theologian, Pascal has dishonestly weighted the wager heavily in behalf of God.

[2] See, for example, Stewart Culin, *Chess and Playing Cards*, in the "Annual Report of the Smithsonian Institution for 1896," Washington, 1898, "Report of the National Museum," pp. 665-942. This monograph gives a lengthy catalogue of games and implements for divination. Other examples can be found in many anthropological and ethnographic works.

basis of gambling, it is not surprising that gambling is accompanied by a vast mass of superstitions. Indeed, the confirmed gambler is one of the most superstitious of human beings. Thus he comes to the gambling game with an image of the Goddess Fortuna, if a pagan, or of the Virgin Mary, if a Christian, or a coin blessed by the Pope which he is sure will bring him good luck.

A card player who is losing will change his seat, or turn his chair, or walk around the table. If he wins while wearing a certain suit he will wear that suit thereafter when playing. Changes in luck are supposed to accompany changes of habit or other changes in the life of the gambler. These beliefs reveal the same kind of crude reasoning from analogy which underlies sympathetic magic.

It has also been suggested that gambling appeals to the instinct of pugnacity in human beings.[3] Where a measure of skill is involved in

[3] Thomas seems inclined to attribute gambling entirely to this factor. I think that he exaggerates its importance. He has, however, furnished a good analysis of its influence, as is indicated in the following passage:—

"We are now, perhaps, in a position to understand how gambling comes to exist and why it is so fascinating. It is a means of keeping up the conflict interest and of securing all the pleasure-pain sensations of conflict activity with little effort and no drudgery; and, incidentally or habitually, it may be a means of securing money—that is, potential satisfactions of all possible kinds, through the gains accruing to the winner. In gambling the risk is imminent, the attention is strained, the emotions strong; and even where the element of skill is removed entirely and the decision left to chance, an emotional

a gambling game there is some justification for a feeling of rivalry and of conflict. But this feeling seems to be present even among gamblers engaged in pure gambling where there is no skill whatsoever involved. In these cases the basis for the feeling seems to be a superstitious belief in one's influence with the dark and inscrutable powers which determine the outcome of the gambling game. While this belief is not usually formulated in so many words, it is revealed in the gambler's feeling and faith that he or she must win.

In some gamblers, perhaps in many of them, there is an inordinate self-confidence which reveals itself in a belief in one's prevailing luck and certainty of success in the long run. This belief belongs in the same category with similar beliefs in luck, in favoring deities, in guardian angels, etc. The gamblers who are willing to take great risks, who are willing to hazard everything upon one throw, belong in the class with those who believe that they were born under a lucky star, that they are children of destiny, etc. These are they who make huge

reaction analogous to the feeling in the genuine conflict is felt. From this standpoint our problem is not so much to account for the gambler as to account for the business-man. The gaming instinct is born in all normal persons. It is one expression of a powerful reflex fixed far back in animal experience. The instinct is, in itself, right and indispensable, but we discriminate between its applications." (W. I. Thomas, *The Gaming Instinct*, in the *Am. Jour. of Sociology*, Vol. VI, No. 6, May, 1901, p. 760.)

claims for themselves, who sometimes profess to be super-human if not supernatural and divine, who undertake vast enterprizes frequently without the slightest rational basis for expecting success. To this class belonged Jesus and Mohammed, Alexander and Napoleon.

AVARICE IN GAMBLING

The gambling impulse is mightily reënforced by avarice. The possibility of acquiring property without working for it, of getting something for nothing, is too strong a temptation for many persons. However irrational it may be to take the risk of losing, greed frequently overcomes prudence and the chance is taken.

Some gamblers claim that they are attracted only by the excitement of the game and have no interest in winning. In a few cases there may appear to be some basis for this assertion, because the gambler does not need to win. But it is doubtful if even in these exceptional cases a person can continue to gamble very long without awakening the sentiment of avarice, which will thereafter furnish an additional incentive for gambling. In most cases there is sufficient need to arouse the avaricious motive from the outset.

The excitement of the game doubtless serves as one of the incentives to gamble in most cases. This is true for both rich and poor alike. It furnishes a change from the ennui and boredom

of the monotony of everyday life. It affords relief from the strain of this life, even though it may substitute for it a different kind of a strain. But to the poor it gives the additional excitement of a chance, however slight it may be, of improving their economic condition materially. This is particularly true of the lotteries in which large prizes are offered. How dazzling to the poor is the *grand prix* in the big lottery which means comparative wealth and luxury? What powerful emotion must be aroused by the mere thought of winning it?[4]

THE PREDOMINANCE OF EMOTION OVER REASON IN GAMBLING

The above discussion shows clearly the predominance of emotion over reason in the gambling impulse. This has been illustrated in the faith in luck, in the superstitions of gamblers, in the love of conflict, in the excitement accompanying the game, in the greed it awakens, etc. Indeed, it is evident that gambling is wholly irrational, for it is invariably a foolish risk to take.

In spite of this fact the gambling impulse is very insidious, and almost invariably increases

[4] The writer has been present at the gathering of a vast throng of persons of all conditions and classes in the main square of a large European city who had assembled to witness the posting of the winning numbers in a big state lottery. It was a striking visible manifestation of the power of the gambling impulse.

rapidly in strength as it is encouraged. This is due to the fact that the emotions which accompany it are greatly enhanced as they are indulged. So that the gambler speedily becomes more superstitious, more contentious, more avaricious, and more desirous of the excitement of gambling. Thus the gambling habit becomes more or less firmly fixed upon its votary. In some cases the gambler becomes the victim of a positive mania which is almost a form of mental derangement and which can rarely if ever be overcome.[5]

It is difficult to compare directly the gambling impulse in men and in women. It is probably true that there is much more gambling among men than among women. But whether this is due entirely to the fact that they have many more opportunities to gamble in their more active life, or is due in part to a stronger gambling impulse, it is impossible to ascertain. It is possible, and perhaps probable, that, owing to their more conservative nature, women are less ready than men to take chances. But when they once embark upon a gambling career, women seem to cast caution to the winds quite as much as men. Certain it is that some women are as inveterate in their gambling as the confirmed male gamblers.

[5] *Cf.* P. Sollier and G. Danville, *Passion du jeu et manie du jeu*, in the *Revue philosophique*, Vol. LXV, June, 1908, pp. 561–576.

Many if not most of the evils which arise from gambling have been suggested in the above discussion. It is obvious that faith in chance and luck is diametrically opposed to the idea of law and order which is promoted by science and philosophy, namely, by a rational view of the universe. On account of its animistic nature the gambler's belief in luck fosters all sorts of vulgar superstitions which have absolutely no basis or justification in fact, and which are repudiated even by many of the gamblers in their rational moments.

The progress of civilization on its intellectual side must be measured by the extent to which it gives currency to the conception of law and order in the universe and of natural causal relations in the sequence of events. It is evident that gambling is utterly incompatible with this conception, and thereby inevitably obstructs the progress of civilization. This is probably in the long run the greatest evil which arises out of gambling. It is comparable with the evil caused by animistic ideas in their magical and religious forms.

As has been noted above, the emotions profit at the expense of reason in gambling. Thus the individual is governed more and more by his feelings and less and less by his reason. This leads to lack of forethought and recklessness. These traits have in turn resulted in wrecking many careers and destroying many

homes. They have brought many gamblers and their families to penury and misery.

If these gamblers had taken a rational view of gambling they would have realized that, according to the mathematical law of probability, in pure gambling they will neither gain nor lose if they play long enough.[6] Furthermore, they would have realized that in most forms of gambling the vast majority of gamblers are sure to lose, either because the operator of the game has "fixed" it so that the odds are against them, or because there are in the game a few gamblers with large financial resources who are able to play the poorer gamblers out of the game.

GAMBLING AND IDEAS OF PROPERTY RIGHTS

One of the worst results from gambling is the effect it has upon ideas and standards of property ownership. As I have already stated, it stimulates the avaricious desire to acquire something for nothing. Thus it accustoms the gambler to the thought of acquiring wealth without putting forth any effort to create wealth, which is obviously an anti-social point of view. Furthermore, it accustoms him to the thought of depriving another of property without giving any equivalent in exchange. Thus it encourages selfishness and callousness towards

[6] See, for a discussion of the law of probability as applied to gambling, L. Bachelier, "Le jeu, la chance et le hasard," Paris, 1914.

the interests of others. While the transfer of the ownership of property which results from gambling is not technically the same as theft and fraud, and while it differs intrinsically from those crimes in that the transfer is effected in accordance with a pre-arranged mutual agreement, nevertheless, like those crimes it encourages the idea of the transfer of wealth without exchange or the creation of new wealth.[7]

Gambling inevitably leads to a good deal of crime. In some places gambling itself is a crime. But even when it is not itself a crime it gives rise to a good deal of crime. It does so directly in various ways. For example, an amateur gambler may embezzle from his employer in order to be able to gratify his passion for gambling. Or he may steal to pay debts he has contracted while gambling. Indirectly it leads to a good deal of crime by lowering the ethical standard of property ownership of the gambler, and by weakening other moral ideas.

[7] The characteristic evils of gambling, especially with reference to property ownership, have been stated as follows:—"In the first place, the prize of the winner comes directly out of the pocket of the loser; second, the connection between the prize and the wager is not a natural condition of social life, but it is arbitrarily fixed; third, the element of chance is not a subordinate, but a predominant element in the transaction; fourth, the practice of gambling causes disorganization of character in the participants; and finally society as a whole receives no benefit, since there is no production of added utility, but on the contrary suffers severely through the deterioration of its members." (F. N. Freeman, *The Ethics of Gambling*, in the *International Journal of Ethics*, Vol. XVIII, October, 1907, p. 78.)

The expression of the gambling impulse furnishes the professional gambler and alleged gambler an excellent opportunity to carry on criminal activities. I have already mentioned some of the frauds practised by the professional. It would be impossible to describe here all of the numerous frauds of this sort.[8]

Some of them are practised upon amateur gamblers who think they are engaged in an innocent game with other amateurs. Sometimes the professional works upon the avarice of the amateur and induces him to enter a game in which he is supposed to be given an opportunity to fleece another amateur, but in which eventually he himself is fleeced by the professional. However reprehensible may be the motive of the victim in such a case, there is no justification for the fraud of the professional. In fact, the human weaknesses which give rise to the gambling impulse furnish a profitable field for the criminal activities of the professional gamblers.

Consequently, the relation between gambling and crime is very close in several respects. Furthermore, gambling is a favorite diversion

[8] Many of the fraudulent gambling and confidence games practised by professionals are described in the following book: —H. K. James (pseudonym of J. H. Keate), "The Destruction of Mephisto's Greatest Web, or, All Grafts Laid Bare, Being a complete exposure of all gambling, graft and confidence games," Salt Lake City, Utah, 1914. See also, T. Byrnes, "Professional Criminals of America," New York, 1886; R. J. Power-Berrey, "The Bye-ways of Crime," London, 1899.

of criminals in general. It is one form of expression of their recklessness and lack of foresight. It illustrates their philosophy of "easy come and easy go." The wealth which they have so easily acquired they are ready to risk in a gambling game.

GAMBLING IN THE BUSINESS WORLD

It is difficult to ascertain to what extent gambling prevails in the business world. In one sense it is true that all business enterprizes involve risk and are speculative. But if an enterprize is of such a nature that it may conceivably create new wealth and thus be productive, it can hardly be called gambling. It is, however, very difficult to determine with respect to certain kinds of business activities whether or not they can possibly be productive. This is peculiarly true of what is ordinarily called speculation, namely, buying and selling commodities and securities in markets with a view to gaining profits from differential prices, where the dealer does nothing to add value to the articles he is buying or selling.

In this book there is not the space for a lengthy discussion of the nature and value of speculation. Suffice it to say, that there is reason for thinking that speculation performs certain useful functions in our economic system as it is now organized. At any rate, this is true when speculation is organized as it is in

the stock and produce exchanges. These exchanges furnish market-places to which demands to buy and offers to sell can come and be registered. By adjusting these demands and offers to each other the exchanges furnish a delicate mechanism for ascertaining and for fixing to a certain extent the market prices. Furthermore, they probably tend, in the long run, to stabilize prices and thus to lessen the risks of the producers of raw materials and of the manufacturers of finished products. It is sometimes asserted that the speculators themselves assume these risks. This assertion is true in a measure, though not entirely.[9]

On the other hand, the opportunities for speculation in the business world as it is now organized doubtless tend to encourage the gambling spirit, and frequently lead to various forms of business gambling. It is evident that the profits of the speculator depend upon the movements of prices. He is, therefore, under strong temptation to try to influence these

[9] "It is in this element of risk that we have the key to the function of speculation. It is often said that all business is to a certain extent speculative; in other words, there is an uncertainty as to the ultimate profits. These risks are inherent in all business, and are no more artificial than the whole commercial order under which we live. They are risks which thrust themselves upon business men and which business men must meet. Especially are these risks dependent on changes in value, and it is the assumption of such risks that constitutes speculation." (H. C. Emery, "Speculation on the Stock and Produce Exchanges of the United States," New York, 1896, p. 7.)

prices to move in the direction favorable to him, regardless of whether or not these movements will in the long run stimulate production.

Speculators are constantly trying to "manipulate" prices with an eye to their own profits. The "bears" are selling "short" with a view to re-purchasing at a profit, and are therefore trying to force the prices down. The "bulls" are buying securities or commodities for which they do not intend to pay with a view of re-selling at a profit, and are therefore trying to push the prices up. Every so often some one tries to "corner" the market and thus to establish a monopoly price for the benefit of himself, but to the detriment of every one else. When the speculating is in options and on the margin, where there is no actual transfer of ownership in the securities or commodities with respect to which the speculating is carried on, there is practically no difference between speculating and gambling.[10]

[10] "Summing up, however, and looking at the question in all its different aspects, it must be admitted that the business of the speculator is not one which, in its present development, gives the moral discipline seen in other forms of trade. The particular fault of speculation is the fact that it nurtures the gambling spirit. It gets men into the habit of seeking to take advantage. In ordinary business transactions it is generally supposed that all parties to a contract are benefited. A contrary impression prevails upon the speculative exchanges, for it is supposed there that what one party makes, the other party loses. This impression is frequently a false one, as has been shown heretofore. But the transactions upon the exchanges in which both parties profit are exceptional, and the minds of the speculators are too often fixed upon some sort of trick or il-

Furthermore, business gambling, like every other form of professional gambling, offers strong incentives for fraud and cheating. I have already mentioned some of these fraudulent methods, such as spreading false information, securing advance information with regard to the declaration of dividends, and "wash sales." To these may be added "dealings before allotment" of securities to subscribers, and various methods used to stimulate panics.

Dishonesty among professional business gamblers is much instigated by the fact that many amateur gamblers are lured into the speculative markets by the prospects of gains. In fact, the profits of the professional speculators come largely from "shearing the lambs." These amateurs are usually ignorant of market conditions and have small resources, so that they become the easy prey of the professionals. The mob spirit is more or less prevalent among them so that they are readily stampeded into buying or selling in certain directions, thus frequently preparing the way for a panic. This mob spirit gives rise every so often to a mad speculative craze, such as John Law's Mississippi scheme, the South Sea bubble, the tulip speculation in Holland, many mining speculations, rubber speculation in England, railway speculation in this country, etc.

legitimate form of gain." (H. H. Brace, "The Value of Organized Speculation," Boston, 1913, p. 198.)

In fact, perhaps the worst evil arising out of business gambling is the encouragement it gives to the gambling spirit throughout the public at large. Furthermore, this gambling on the part of the public results in the loss of their small savings on the part of many individuals who can ill afford to lose, and who suffer greatly thereby.

THE REGULATION OF GAMBLING

It may now be asked whether or not any benefits whatever can be derived from gambling. It is sometimes alleged that gambling is a pleasant recreation with which to while away an idle hour. An amateur who gambles rarely and never for more than he can readily afford to lose may profit from the diversion offered by an occasional game of chance without suffering any injury. But it is impossible for any one to gamble often without acquiring the gambling spirit, and when that spirit is indulged some if not many of the evils which I have described are sure to arise from it.

It is also alleged in defense of gambling that it may furnish a source of revenue for various useful purposes. In some European countries gambling is taxed, and the revenue from this tax is used to maintain public charities and other public utilities. But this has happened usually after a government has first tried to suppress gambling without success, and then

has decided to regulate it and to force it to contribute to the public revenues just as other forms of luxury are taxed. So that the public revenue derived from gambling is only a slight mitigation of its evils.

In this country the government has in recent years tried to suppress gambling entirely. This attempt has been due largely to an appreciation of the evils of gambling. But it has been due in part to Puritanical prejudice against pleasurable recreations of all sorts. This is indicated by the fact that the attempt has sometimes been made to suppress not only gambling but also amusements with which gambling is often associated though they are harmless in themselves, such as card playing, horse racing, boxing, etc. The attempt to suppress gambling absolutely has been unsuccessful in the main, because there are few vices which can be practised with as much secrecy as gambling. Whether or not this attempt has checked gambling more than the regulative measures in Europe it is impossible to ascertain, because of the private and clandestine character of much of the gambling in this country.

It is obviously impossible to prevent most forms of gambling by means of the penal law. A bet may be made upon a street corner by two men standing within five feet of a policeman without the policeman being aware of it, while

there is no possible way of checking gambling within private houses. It is therefore foolish to enact sweeping penal laws against gambling, because such laws are manifestly unenforceable.[11]

Drastic laws should, however, be passed against the activities of professional gamblers, and against professional gambling in public places. Thus gambling houses in which roulette wheels, slot machines, lotteries, professional card games, etc., are operated should be suppressed, and the activities of professional gamblers upon the streets, at race courses, and in other public places should be sternly repressed. Public advertisements of lotteries and other forms of gambling should be prohibited. In other words, every feasible measure should be adopted to prevent the public and professional stimulation of gambling.[12] Furthermore, cheating and fraud by professional gamblers should be all the more severely punished.

However desirable it may be to repress private, amateur gambling, it is not feasible to do so by penal means. We should, therefore, trust

11 For example, the New York Penal Code specifies that "all wagers, bets, or stakes, made to depend upon any race, or upon any gaming by lot or chance or upon any lot, chance, casualty, or unknown or contingent event whatever, shall be unlawful." ("N. Y. Penal Code," 1915, Section 991.)

12 The English law against gambling accomplishes this object fairly well. (See H. W. Rowsell and C. G. Moran, "A Guide to the Law of Betting, Civil and Criminal," London, 1911.)

to prophylactic and preventive measures and remove as far as possible the causes of the gambling impulse.

Most of these preventive measures must be along two main lines of endeavor. In the first place, the economic basis of the life of the vast majority of individuals should be rendered much more stable than it is at present. In the second place, legitimate outlets should be furnished for the spirit of adventure, in order that there shall be little inducement to gratify this spirit by means of gambling.

CHAPTER VIII

THE SEX RELATION

Man has always been a serious problem to himself, and many have been the interpretations he has placed upon the different parts of his nature. Records and evidences of these interpretations we find in magical and religious practises and beliefs; in mythology; in tradition, custom, law, and social organization; etc.

Perhaps most inexplicable of all have been the powerful emotions such as anger, jealousy, envy, etc., and man has formulated many myths in his attempts to explain them.

There is, probably, no part of man's nature which has been a greater mystery to him than his sexual nature. Connected with sex are powerful feelings and strange processes which it is indeed difficult for man to explain. At the time of puberty and adolescence there develop most of the secondary sexual traits. At the same time come to fruition the sexual passions which give rise to some of the keenest sensations experienced by man and which constitute one of the principal dynamic elements in man's nature. With puberty there arrive at maturity the processes involved in the sex rela-

tion, which have already appeared in an adumbrated form during childhood. For the female there begins at this time the catamenial function (menstruation), and after conception comes pregnancy and then parturition.

It is not surprizing that man has had many hypotheses with respect to the nature of sex, and has regulated it in many and diverse ways. He has done the same with respect to other human traits. But inasmuch as his sexual nature includes what constitutes the most powerful group of instincts and emotions apart from the nutritive function, this has been especially true of it. We shall review briefly these conceptions of sex, and then consider the nature of the sex relation in the light of modern scientific knowledge. Not otherwise is it possible to organize and regulate it intelligently.

PROMISCUITY AND MONOGAMY

It is obviously impossible to ascertain the form or forms taken by the sex relationship in the early stages of human evolution. Conjecture ranges all the way from complete promiscuity to strict monogamy. The truth doubtless lies somewhere between these two extreme theories, but probably approaches closer to the theory of promiscuity than to the theory of monogamy.

As against the theory of complete promiscuity it is argued that the rearing of the young

required the care of the male as well as of the female parent, so that unions between individuals of the two sexes must have been of some duration. There are reasons for thinking that the hominidæ, like some of the other primates to which they are closely related and many of the carnivorous species, are relatively non-gregarious, and therefore probably lived in the earlier stages in small family groups rather than in large communal groups. But if the hominidæ lived in large groups the young may have been reared by the group in common, as is true of many of the gregarious herbivorous species, so that the care of the individual male parent would not be necessary.

It is also argued that another limitation upon promiscuity was the powerful emotion of jealousy, which may have characterized man as it characterizes many of the higher mammals. This emotion would naturally lead the male to monopolize the female or females of whom he had gained possession. It is indeed possible that this trait evolved because of its survival value for the rearing of the young, since it furnishes a strong bond to hold parents together.

Jealousy and the necessity of rearing the young would therefore be powerful forces for more or less permanent unions.[1] As to whether

[1] Among the numerous writers who hold this point of view, or whose writings seem on the whole to point in this direction, may be mentioned the following:—Charles Darwin, "The Descent of Man and Selection in Relation to Sex," London, 1871,

these were monogamous or polygenous, it is difficult to say. The numerical equality of the sexes was doubtless a strong factor for monogamy. But the stronger males were probably able to gain possession of more than one female apiece.

The contrasted view to the above is that the hominidæ lived in communal groups in which the young were cared for by the group in common. Those holding this view do not usually regard jealousy as a primitive trait, but rather as a secondary trait which arose out of the sense of ownership after the women had acquired an economic value.

Many facts, indeed, suggest a high degree of promiscuity in the earlier stages of human social development. Among these are the records of observers of many primitive peoples which indicate that promiscuity before marriage and sometimes after marriage was customary. Furthermore, such institutions as group marriage, sexual hospitality, the *jus primæ noctis* in some cases, perhaps sacred prostitution as an expiation for marriage, and many other savage and barbaric customs may be vestiges of an earlier state of promiscuity.[2]

2 vols.; Andrew Lang, "Social Origins," and J. J. Atkinson, "The Primal Law," London, 1903; E. Westermarck, "The History of Human Marriage," London, 1891; N. W. Thomas, "Kinship Organizations and Group Marriage in Australia," Cambridge, Eng., 1906; B. Malinowski, "The Family among the Australian Aborigines," London, 1913.

[2] Among the numerous writers who have furnished data

There is not the space to present here the biological and psychological evidence which indicates that sexual jealousy was probably an original and primary trait of man. But this trait has doubtless been greatly accentuated and complicated by the development of the sense of ownership as a secondary trait. In any case, sexual jealousy as an original trait would not be incompatible with a considerable amount of promiscuity, for until a female had been permanently appropriated by a male she would naturally have promiscuous relations.

Hartland presents an imposing array of facts with respect to the widespread practise of sexual liberty, not only among the unmarried but frequently among the married as well. Upon these facts he bases his theory that jealousy is not an original trait of man but has grown out of the sense of ownership. The following quotations are of interest in this connection:—

"The wide prevalence of the opposite practice, namely, the sexual liberty recognised as the right of the unmarried both male and female, may be regarded as evidence of the small

which have supported in one way or another this point of view may be mentioned the following:—L. H. Morgan, "Ancient Society," New York, 1877; J. F. McLennan, "Studies in Ancient History," London, 1876; W. Robertson Smith, "Kinship and Marriage in Early Arabia," London, 1903; B. Spencer and F. J. Gillen, "The Native Tribes of Central Australia," London, 1899, "The Northern Tribes of Central Australia," London, 1904; A. W. Howitt, "The Native Tribes of South-East Australia," London, 1904.

social importance attached to the gratification of the sexual instincts apart from the limitations imposed by the sense of ownership and the consequent growth of the ideal of chastity. The sense of ownership has been the seed-plot of jealousy. To it we are indebted for the first germ of sexual regulations. To it in the last resort, reinforced by growing physiological knowledge and sanctioned by religion, is due the social order enjoyed by the foremost nations of Europe and America."[3]

"The view thus implied of what we should call serious offences against virtue is not, it is true, universal. But it is common enough and distributed widely enough to lead the student seriously to ask whether the masculine passion of jealousy can be as fundamental and primitive as it is sometimes asserted to be. If the answer be, as I believe it must be, in the negative certain hypothetical reconstructions of the history of marriage will need reconsideration."[4]

Some of the writers who hold strongly to the theory of jealousy as an original human trait admit that promiscuity has been widespread at many times and places. For example, Westermarck, who holds this theory, cites many such instances of promiscuity in his history of human marriage.

[3] E. S. Hartland, "Primitive Paternity," London, 1910, Vol. II, pp. 102–103.

[4] *Op. cit.*, Vol. II, pp. 242–243.

A follower of Westermarck, Malinowski, also recognizes the influence of the sense of ownership. He first indicates the existence of physiological jealousy:

"In the first place, we may assume in this society, as in the whole of mankind and in the majority of higher animals, a physiological basis for jealousy in the form of an innate instinct; a natural aversion of an individual towards an encroachment on his sexual rights and a natural tendency to expand these rights as far as possible—within certain variable limits. That among the Australian aborigines such instincts of jealousy are not absent, that they are, on the contrary, very strongly developed, is evident from nearly all the facts quoted and all general considerations. It is proved by the high esteem in which in some tribes chastity is held; by the fact that fidelity is required in all other tribes, and that it yields only to custom."[5]

Malinowski then recognizes the influence of the sense of ownership:

"The idea of the individual sexual over-right and control over his wife is strongly present in the aboriginal mind. This right is undoubtedly realized as a privilege, and the natural tendency to keep his privileges for himself, or dispose of them according to his wish or interest, must create a strong opposition to any encroachment.

[5] B. Malinowski, *op. cit.*, p. 125.

In other words, the sexual act has its intrinsic value, and it is considered as an unquestionable advantage. And the right to this advantage constitutes a kind of private property. The feeling of jealousy exists here in its economic sense: the proprietor of a certain object begrudges the use of it to any one whom he does not invite to it, or who is not otherwise entitled to the privilege. And this seems to me one of the strongest probable sources of jealousy, besides the natural physiological impulse of aversion, mentioned above."[6]

But whatever may have been the situation among early men, all forms of sex relationship have existed and still exist among the peoples of whom we have records. These include promiscuity, group marriage, polygyny, polyandry, and monogamy. Various combinations of these forms also exist. For example, we find promiscuity before marriage for both sexes or for the male sex alone, accompanied by strict prohibition of promiscuity after marriage for both sexes, or for the female alone. Or we find strict prohibition of promiscuity before marriage for both sexes or for the female alone, accompanied by a certain amount of promiscuity after marriage for both sexes or for the male alone. As the above examples illustrate, there has been on the whole more freedom for the male than for

[6] *Op. cit.*, pp. 126–127.

the female. The causes for this difference will be indicated in a later chapter.

The most that can be said in any attempt to generalize is that there is apparently a tendency away from promiscuity, and a tendency towards monogamy. Jealousy not only on the part of the male but also on the part of the female who resents the existence of other wives or sweethearts, the necessity of caring for the offspring and parental affection for the young, the numerical equality of the sexes, the desirability of providing a well tested companionship for old age, and the establishment of organized government in the place of individual power encourage these tendencies. The development of human personality has perhaps also aided these tendencies in some ways, though in other respects it has probably been a force for greater freedom.

FACTORS INFLUENCING THE SEX RELATION

In the course of human social evolution many other factors have made their appearance which have influenced sex relations and have greatly enhanced the complexity of the problems involved. Some of the more important of these factors I shall mention, especially those which are playing a part in civilized society and are still giving rise to sex regulations.

As the human mind evolved and especially

as language developed, man began to meditate and speculate upon the nature of sexual phenomena. The phenomena connected with reproduction must have seemed very extraordinary to him, and many have been the hypotheses formulated by him to explain them. For many ages the physical relation between father and offspring was not recognized. Vestiges of attempts to explain the pregnancy of the mother are to be found in the totemic beliefs still extant among many primitive peoples, in myths of supernatural birth and metempsychosis, and in metronymic and patronymic ideas and practises.[7] Superstitious and mythical explanations of reproduction were inevitable until scientific knowledge had been acquired of the causal connection between the sex relation and reproduction.

In similar fashion early man attempted to explain the mysteries of the sex relation, which is a critical experience for man on account of the intensity of the feelings involved. Especially mysterious is the sexual function in woman, and this was doubtless the principal cause for the development of a peculiar mental attitude on the part of the male towards the female. Perhaps the most striking feature of it is the flow of

[7] A vast amount of data with regard to primitive explanations of reproduction in the absence of a knowledge of physiological paternity is given in E. S. Hartland, "Primitive Paternity, The Myth of Supernatural Birth in Relation to the History of the Family," London, 1909–1910, 2 vols.

blood in connection with puberty (the hymenal flow), the periodic catamenial function (the menstrual flow), and parturition (the puerperal flow). This was probably the principal cause for the notion still more or less prevalent that sex is unclean, especially in woman.[8]

This notion of the uncleanness of sex led to many sexual taboos to guard against the contagion of this uncleanness.[9] It has also played a part in the establishment of many exogamous and endogamous regulations of the sex relation,[10] some of which still persist in the form of prohibitions against incest.

It was to be expected that sex would play an important part in magic. For example, owing to a false analogy between sexual acts and the growth of vegetation sex has frequently been regulated on the principle of homeopathic or imitative magic in order to insure a good harvest.[11]

[8] See, for example, J. G. Frazer, "Balder the Beautiful," London, 1913, Vol. I, Chap. II, "Seclusion of girls at puberty"; "Taboo and the Perils of the Soul," London, 1911, Chap. IV, "Tabooed persons," Sec. 3, "Women tabooed at menstruation and childbirth."

[9] A searching study of this subject has been made by E. Crawley, "The Mystic Rose, A Study of Primitive Marriage," London, 1902. Descriptions of many of the rites connected with sex are given in A. van Gennep, "Les rites de passage," Paris, 1909.

[10] See, for example, L. H. Morgan, *op. cit.*, J. F. McLennan, *op. cit.*, W. Robertson Smith, *op. cit.*

[11] See, for example, J. G. Frazer, "The Magic Art," London, 1911, Vol. II, Chap. XI, "The influence of the sexes on vegetation."

It is not surprizing also that sex has played an important part in religion. Phallic worship has existed at many times and places. Sex has been attributed to anthropomorphic deities and sacred prostitution has played its part in the worship of these deities.[12] In the attempt to propitiate deities has arisen the ascetic ideal of foregoing sexual pleasures in order to expiate sin and to attain purification.[13]

Another important factor in the regulation of sex has been the economic subjection of woman. On account of her inferiority to man in physical strength, woman has doubtless always been more or less subject to him. But in the early stages of the evolution of human society, before the division of labor had been carried far enough to cause much differentiation in occupations and professions, woman was probably very little if at all upon an inferior plane economically. But as the pastoral, agricultural, and later stages in economic evolution took place, woman became in a large measure a form of property. Marriage by purchase came

[12] See, for example, J. G. Frazer, "Adonis, Attis, Osiris," London, 1907, Chap. IV, "Sacred men and women"; E. S. Hartland, "Ritual and Belief," London, 1914, Essay entitled "The rite at the Temple of Mylitta."

[13] *Cf.* E. Westermarck, "The Origin and Development of the Moral Ideas," London, 1908, Vol. II, Chap. 39. "In various religions we meet with the idea that a person appeases or gives pleasure to the deity by subjecting himself to suffering or deprivation. This belief finds expression in all sorts of ascetic practices." (P. 356.)

into being and to the natural jealousy of man was added the artificial property right to subjugate woman in marriage.

The preceding brief survey has revealed some of the principal factors in the organization and regulation of the sex relation in the past. Some of these factors still persist today. In the Occidental world the dominant religion is Christianity. This religion originated from an extensive folk culture arising from many sources. Some of the elements of this culture still persist in this religion. For example, the myth of supernatural birth is embodied in Christianity in the form of the legend of the virgin birth of Jesus.

In the Christian religion the magical notion of the uncleanness of sex has been combined with and has reënforced the ideal of propitiating the deity by expiation and purification through chastity. Thus the ascetic ideal has played a prominent part in Christianity and has influenced the regulation of sex down to the present day. Owing to this ascetic ideal the sex relation *per se* still has a certain amount of stigma attached to it, and its legitimacy is usually admitted by the conventional morality rather grudgingly only for purposes of procreation, and not always even for that purpose.

CHAPTER IX

THE PLAY FUNCTION OF SEX

Sex is no more or no less mysterious to science than any other part of human nature or any other object in the universe. Magical and religious interpretations can, therefore, play no part in a scientific exposition of the nature and functions of sex.

THE REPRODUCTIVE AND PLAY FUNCTIONS OF SEX

The primary and fundamental function of sex is reproduction. This function has doubtless existed as long as sex itself. It is obvious that without this function the human species would soon perish. Furthermore, the continued existence of the species requires not only the sexual acts but also care of the young, and this second requirement is likely to react upon the relations between the sexes and the ways in which the sexual functions are fulfilled.

In the higher animals, and in the warm-blooded vertebrates in particular, sex has acquired a second function, which is in its way as important as the first function. This second function is due to an efflorescence of the sexual impulse, largely through the affective traits of

the warm-blooded animals. The feelings are much more highly developed in the warm-blooded animals than they are in the cold-blooded animals, doubtless owing to the more complex vascular system of the warm-blooded animals. Consequently, a great expansion of the extent and scope of sexual feeling has been possible in the warm-blooded animals.

The original seat of sexual feeling doubtless is in the sex glands. But according to the latest theory of glandular action some of the glands, including the sex glands, send out so-called "hormones" to other parts of the organism. So that probably through the stimulation of the nerve centers caused by the hormones which are sent out from the sex glands to all parts of the organism, sexual feeling is aroused throughout the organism. The existence of these hormones is still hypothetical, so that it is not yet possible to state whether, if they exist, they are in the form of discrete particles or of a chemical solution.

The results from this organic state of feeling are many and varied, and it would be impossible to describe them in detail here. But the importance of sexual feeling is indicated by the recognition it has received in psychology. For example, according to one psychological theory all feelings of pleasure are sexual in their origin. This theory probably is wrong, but there is no doubt that many pleasurable feel-

ings, perhaps the majority of them, are sexual in their origin. Furthermore, there can be no doubt that sexual feeling is one of the most acute, perhaps the most acute, form of feeling and of pleasure. It is also true that a good deal of pain is, indirectly at any rate, due to sex. This pain is caused by undue repression of sexual impulses, or in some other way connected with sex.

The complexity of the results from the state of feeling stimulated by sex is so great that it is difficult to give a name to this secondary function of sex. I choose to call it the "play aspect" of sex, or the "play interest" in sex. My reason for using the word "play" is that this function of sex gives rise to much behavior whose motive is not practical in the sense that work is motivated by practical ends, so that in this respect it is like play. Consequently, even though this name does not indicate fully the scope of this function, I shall call this function of sex the play function.[1]

THE INFLUENCE OF THE PLAY FUNCTION

The play aspect of sex is developed to a considerable degree among all of the higher animals. Among many of them it is a strong social force, and adds considerably to the richness

[1] So far as I know this name was used for the first time in my "Poverty and Social Progress," New York, 1916, pp. 310 *ff.* The next few paragraphs are in part paraphrazed from that book.

of their life. But sex is on the whole more exclusively for reproduction among the animals than it is among men. This is well illustrated by the rut. Owing to the rut sexual feeling is very acute at certain times among many of the animal species, but is more or less quiescent at other times.

The rut seems to have disappeared entirely or in large part among men,[2] so that sexual feeling is more or less evenly diffused over the whole of human life. Consequently the play function is a constant factor in the life of man. Furthermore, the human intellect makes the play aspect a conscious end to a much greater degree than is possible for any animal, while many human ideas become associated with sexual feelings, thus forming sentiments which exercize a powerful influence over the life of man.

Much of human achievement has been due to the play function of sex, but it is impossible to describe these achievements here. Suffice it to say that many military, political, and economic achievements have been due to male gallantry in behalf of women, or to sexual rivalry among men. Furthermore, the play function is frequently an indirect cause of achievement. Much of art, literature, and religion is a sym-

2 *Cf.* E. Westermarck, "The History of Human Marriage," London, 1891, Chap. II, "Human pairing season in primitive times."

bolic interpretation of sexual feelings and desires, where these feelings and desires have been sublimated and the results of the sublimation are being manifested in these forms. The extensive rôle played in the life of man by this function of sex has been more or less fully revealed in recent years by the study of the unconscious, subconscious, co-conscious, or subliminal aspect of human nature. Psychoanalysis has furnished a valuable technique for this study.

OPPOSITION TO THE PLAY FUNCTION

In spite of these facts, certain ideas are more or less prevalent at present which deny the existence, or, to say the least, the utility of the play function of sex. The first of these ideas is that reproduction is the only natural, legitimate function of sex, and that the use of sex for any other purpose is animal, bestial, licentious, and immoral, and that a human being who recognizes any other function of sex and practises it reverts to the animal plane. The above facts indicate that the exact opposite of this idea is the truth.

Among the lower animals sex is exclusively or almost exclusively for purposes of reproduction. Higher in the animal scale there develops the secondary function which I have called the play function of sex. This function plays an increasingly important rôle. It reaches its

highest fruition in man, and is therefore most distinctively human in its character.

Consequently, it is not animal and bestial to recognize the play function of sex and to advocate a full scope for it. On the contrary, it is human, social, and cultural, in the best sense of those terms, to foster this supremely valuable trait of mankind. Those who deny the play function of sex convict themselves of bestiality by so doing, because they are denying what is most distinctively human in favor of what is more distinctively characteristic of the beasts; while those who attempt to provide suitable and adequate opportunity for the exercize of this human trait in the life of mankind are furthest from the brutes.

A second idea, which grows to a large extent out of the first idea, is to the effect that each generation should live exclusively for the sake of succeeding generations. Several criticisms may be made of this idea. In the first place, there are no scientific or philosophic reasons why there should be any future generations. No facts have ever been discovered which prove that anything of moment in the universe apart from man's own interests depends upon the continuance of the human species. Consequently, so far as any scientific or philosophic considerations are involved, it would be entirely justifiable for the present generation to devote itself exclusively to its own interests, and to make

no effort to perpetuate itself by means of reproduction.

But even if it is assumed on religious or moral grounds that there should be succeeding generations (and this assumption is made by most persons), it would still not be necessary for the present generation to sacrifice itself entirely in the interest of future generations. Such a sacrifice would presumably be altruistic in its character. But if the present generation assumed that a complete self-sacrifice was obligatory, it would place itself in an inconsistent and logically fallacious attitude towards altruism. It would not be altruistic for the present generation to transmit to future generations a tradition of a duty which, if performed, would in turn destroy the enjoyment of life for those generations also. If this obligation rests upon the present generation, it must rest upon future generations as well, so that it would be the highest altruism not to bring those generations into the world under the burden of such an obligation.

In the second place, even if it is assumed that there should be future generations, and that each generation must sacrifice itself at least in part for its descendants, it is not necessary to assume that this sacrifice must be complete. If this were the case, only the last human generation could derive any enjoyment out of life,

because it would have no descendants for which to sacrifice itself, and there would be no justification for the existence of the preceding generations. So that even the persons who believe in the duty of propagation can be hedonists to the extent of believing that each generation is entitled to some enjoyment.

Ideas opposed to the play function of sex are to be expected wherever duty and morality are worshipped as ends in themselves, as is the case in this country on account of its Puritanical cultural background. Owing to these ideas, it is customary to regard parenthood as a duty, but to look with suspicion upon the play function of sex because, perchance, pleasure may be derived from the exercize of this function. It is obvious that so long as it is believed that there is opposition between the two functions of sex, it will be impossible to harmonize them in the life of mankind.

HARMONIZING THE SEXUAL FUNCTIONS

The first step towards harmonizing these two functions is to regard parenthood not as a duty but as a privilege and a source of pleasure. As I have already indicated, there is no scientific or philosophic reason for regarding the perpetuation of the species as a duty. Rarely, if ever, also, is there any social and humanitarian reason for regarding reproduction as a duty,

because it is ordinarily the tendency of population to increase more rapidly than is desirable for society.

On the other hand, parenthood may be and is under suitable conditions a source of much pleasure. Under the stress of poverty and similar conditions of misery it may be a source of more pain than pleasure. But ordinarily the satisfaction of the instincts and emotions connected with parenthood more than repays all of the pain and discomfort caused by parenthood. Consequently, there is every reason to consider parenthood a privilege rather than a duty, and its value to the individual as a privilege will doubtless be enhanced in the future by the increasing pressure of population upon natural resources. This pressure may become so great that society may be forced to prohibit each couple from having more than three or even two children.[3]

The second step towards harmonizing the two functions of sex is to recognize that they may reënforce each other, and will do so when properly exercized. The play function ordinarily leads in course of time to reproduction, and then, if the play aspect of the relation between the parents is strong, it is almost certain to be made stronger by the bond of mutual parent-

[3] I have discussed the problem of population at considerable length in my "Poverty and Social Progress," Chap. XII, entitled "The Growth of Population and the Increase of Wealth," and Chap. XIII, entitled "Population and Poverty."

hood. It happens much more rarely, if ever, that reproduction without the play aspect leads to a development of the play function of sex. This is due to the fact that, despite the opinion of many persons to the contrary, so far as the individual is concerned the play function normally comes first in point of time. This situation is explained by the following scientific facts.

While there is a distinct sexual instinct, there is no distinct parental instinct. That is to say, human beings feel a distinct impulse towards a definite form of behavior with respect to sex, namely, the satisfying of erotic feelings. But they do not feel, and they obviously could not feel a distinct impulse towards a definite form of behavior with respect to parenthood, because there is no single act on the part of the individual which is sure to cause parenthood. On the contrary, parenthood is the outcome of a long process which goes on automatically and independently of the acts of the individual. The process of reproduction begins as a result of sexual intercourse, but the individual can do nothing to bring about this result. Then after pregnancy has commenced, the process is entirely automatic.

It is nevertheless true that reproduction stimulates certain instincts and emotions in the parents which lead to a strong affective attitude towards their offspring, and to various

kinds of acts in behalf of the offspring. So that while there is no distinct parental instinct, there are various instincts and emotions which are stimulated by reproduction, and which are connected with parenthood.

If these two measures to harmonize the functions of sex are taken, sexual relations will under normal conditions begin on the play basis and culminate in parenthood, which will in turn reënforce the play aspect of the union. This result is much to be desired from the point of view of the interest of the child, because, if the play function is strong, the parents are not likely to separate, and thus the child will have the benefit of the care of both parents.

If, however, the sex relation begins without the play aspect, and is merely for the purpose of reproduction, it is almost certain to arouse a repugnance which can never be overcome. In such a case reproduction is not likely to reënforce the play function, and the parents are very likely to separate, so that the children will not have the benefit of the care of both parents. And even if the parents do not separate under such conditions, the environment in the household of a mismated couple is not favorable to a good rearing for the offspring.

These facts indicate that both functions of sex are based upon powerful instincts which are deeply rooted in human nature, that they involve many feelings, and that numerous

ideas and sentiments are connected with them. But, however important the reproductive function may be, the play function can perhaps claim at least a little superiority from a cultural point of view, because it is a higher product of mental and social evolution. To say the least, the play function is probably a more conscious and intelligent element in the human mental makeup, because it doubtless is associated with more complex ideas and sentiments than the reproductive function of sex.[4]

The obvious significance of the above facts is that the play function of sex has been an important factor in the evolution of civilization, and has done much to enrich human personality. It is, therefore, an indication of profound ignorance of human nature and of cultural evolution and an exhibition of crass stupidity to attempt to organize and regulate sex relations without any regard to this function of sex.

And yet there has been much regulation of this sort for magical and religious reasons, on account of the economic position of woman, and in behalf of the reproductive function of sex. I have already expressly ruled out of consideration the magical and religious reasons. Regulations arising out of the economic dependence of woman are inevitable so long as that condition exists. Inasmuch as the same im-

[4] I hope to describe the play function of sex in greater detail in a future treatise on this subject.

pulses are involved in both the reproductive and the play functions of sex, though frequently in a different form, it is impossible to regulate sex to any degree in the interest or alleged interest of reproduction without interfering seriously with the play function.

Now it is characteristic of the play function of sex that it must act spontaneously so far as the individual is concerned. That is to say, there can be no immediate directing or regulating as to the object or objects towards which the sexual impulses of the individual will direct themselves. So that to interfere with sexual relations and acts in the name of reproduction is to interfere with the spontaneous operation of the play function.

The above remarks, however, are not meant to imply that the play function cannot be much influenced indirectly. As a matter of fact, early environment and training, the ideas possessed by an individual, and many other factors, influence the play function greatly. The wise method of trying to influence either of these two functions of sex is to do so by indirect means, and to be very careful to influence neither function in any way which will do injury to the other.

CHAPTER X

METHODS OF SEX REGULATION

I SHALL now enumerate the sex regulations prevailing in the civilized world, classifying them in an orderly fashion. Some of these regulations exist everywhere in the civilized world, others of them exist only in certain parts of the civilized world.[1]

CLASSIFICATION OF SEX REGULATIONS

The first group includes the sexual offenses against the person. Strictly speaking, the only offense in this group is rape; and not even all kinds of rape in some legal jurisdictions, for sexual intercourse outside of marriage with a female under a specified age may constitute rape in the second degree, even though she has consented to the intercourse. But abduction may in some cases be regarded as a sexual offense against the person, as when a female is forcibly carried away and detained against her will in order to be used for sexual purposes.

[1] All the laws regulating sex in New York City have been compiled in convenient form by A. B. Spingarn, "Laws Relating to Sex Morality in New York City," New York, 1915. This book furnishes a good picture of sex regulation from the conventional point of view in one civilized community.

In other words, abduction is sometimes an act preparatory to rape.

The second group includes the crimes of false pretenses committed for sexual purposes. The first is seduction under promise of marriage. The second is bigamy in most cases, for the bigamist does not usually inform the innocent party to the marriage of his or her existing spouse.

The third group includes the regulations of marriage. Marriages between persons within the prohibited degrees of consanguinity are declared void and are punished as being incestuous. Bigamy, under which term in our law is included every form of marriage apart from monogamy, is prohibited and punished. Adultery is punished as a violation of the marriage bond. Divorce is absolutely prohibited in some places and is narrowly limited in many places. For example, it is prohibited in South Carolina and is permitted only for adultery in New York State.

The fourth group includes regulations of extra-marital sex relations. Every form of extra-marital sexual intercourse under the name of fornication is absolutely prohibited and punished in some places. But in most parts of the civilized world today fornication as such is not punished, though legal attempts are frequently made to discourage and limit it. Concubinage, or long continued fornication between the same

parties, is sometimes distinguished and punished more severely than ordinary fornication. Fornication between persons within the prohibited degrees of consanguinity is also punished more severely as being incestuous. Prostitution, or fornication for profit, is punished in some places, while nearly everywhere there are regulations of prostitution with a view to discouraging and limiting it.

The fifth group includes regulations of reproduction. Abortion is prohibited and punished in most communities. The use of contraceptive measures to prevent conception is prohibited in many places. To become the parent of an illegitimate child is penalized in some places, while in many places regulations exist for the purpose of discouraging bastardy. Furthermore, in some places bastards suffer from certain legal disabilities.

The sixth group includes regulations of sexual variations or aberrations, popularly called perversions. Among these aberrations are many ways of satisfying the sexual impulse which are usually regarded as abnormal and which are rather vaguely comprehended under the terms sodomy and buggery. Sexual variations may arise by means of the sexual impulse becoming directed towards objects other than the normal object, such as towards individuals of the same sex (homosexuality), towards the sexually immature (pederasty),

towards animals (bestiality), and towards inanimate objects (sexual fetishism).

The seventh group includes all regulations of acts and objects which are incidental to sex or suggestive of it, or which are popularly regarded as being related in some way to sex. In accordance with the conventional moral standard these acts and objects are usually called indecent, obscene, lewd, lascivious, salacious, immodest, etc.

In the last group of regulations are the laws and conventions which forbid an unusual degree of exposure of the body in public. Such exposure is ordinarily regarded as immodest and indecent, because it is sexually suggestive to the conventional mind which is almost invariably highly prurient. Dancing has sometimes been prohibited because it involves close contact between the sexes. These regulations also include the prohibition of spoken references to sex in private or in public, as, for example, on the stage; written references to sex in books, journals, etc.; and artistic or other representations of matters related to sex, as in pictures, statues, etc.

The preceding conspectus of sex regulations, brief and concise though it is, is sufficient to indicate that the factors mentioned in the two preceding chapters are still at work. In these regulations we can discern the influence of the magical notion of the uncleanness of sex, the re-

ligious and especially the Christian notions of asceticism and the sacramental character of marriage, the economic dependence of women, etc. These regulations represent in our Anglo-American culture what is usually called the Puritanical attitude towards sex, which we are as yet very far from having outgrown. I shall describe several recent typical examples of Puritanical sex regulation and repression.

THE WHITE SLAVE TRAFFIC ACT

In 1910 Congress enacted the "White Slave Traffic Act." (U. S. Statute at Large, 825; Act of June 25, 1910, C. 395.) The nature of this law will be indicated by citing Section 2, which reads as follows:

"That any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, or in any territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the

right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or to any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in any territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment of not more than five years, or by both such fine and imprisonment, in the discretion of the court."

This law, commonly known as the "Mann Act," has unfortunately been declared constitutional. (Hoke vs. U. S., 227 U. S. Supreme Court Reports 308.) Its official title implies that it was enacted to prevent the traffic in women for the purpose of prostituting them against their will. But the section of the law which I have quoted is sufficient to indicate that it is much broader in its scope. It makes a felony of almost every attempt to aid a woman or girl to indulge in any "immoral practice."

If a man or a woman expended five cents in carfare to transport a woman from one state

to another in order that she might indulge in an alcoholic beverage, a felony would have been committed under this law, provided the court considered that imbibing an alcoholic beverage is immoral. Cases quite as absurd as this one have been tried before the federal courts and have resulted in convictions. It has been decided that the word "debauchery" as used in the act does not include sexual intercourse alone, but may be extended to cover vice and immorality other than so-called sexual vice and immorality. (Athanasaw vs. U. S., 227 U. S. Supreme Court Reports 326.) In various cases it has been decided that the act is not limited to commercialized vice. (U. S. vs. Flaspoller, 205 Federal Reporter 1006; Johnson vs. U. S., 215 Federal Reporter 679; Diggs vs. U. S., and Caminetti vs. U. S., 220 Federal Reporter 545. The U. S. Supreme Court affirmed these decisions by a vote of five to three in a decision rendered January 15, 1917, upon the appeals of the Diggs-Caminetti and Hayes cases.)

The immediate responsibility for this infamous law rests upon the members of Congress who created it. But it rests even more upon the so-called "social hygiene" and other vice reformers whose agitation in favor of such legislation was largely to blame for the law, and who in this matter as in so many other matters displayed their ignorance and their bigotry. Some responsibility should also be placed upon

the sensational yellow newspapers whose exploitation of a largely mythical white slave traffic helped to drive Congress to enact this stupid and brutal piece of legislation.

PURITANICAL SEX REGULATION IN THE UNITED STATES

The "Mann Act" and the immigration laws give the U. S. Commissioner-General of Immigration an enormous amount of authority to pass upon the morality and therefore the fitness, of aliens to be admitted to this country. Extraordinary indeed are the results from the exercize of this power[2] by means of which our Government constitutes itself the mentor of the intimate personal affairs and private morals, not only of its own citizens, but of foreigners as well.

Fornication is not a crime in some parts of this country, but adultery is a crime almost everywhere.[3] However, they are not usually

[2] For example, a wealthy Greek merchant arrived in New York with a traveling companion, who was reputed to be a Belgian countess. The couple were placed under detention because they could not give an account of their relationship which was satisfactory to the Immigration Inspectors. (See *The New York Times*, April 30, 1916.)

[3] "Forty-six States, that is all but two, make adultery a crime, defining it as sexual intercourse between two persons, either of whom is married to a third person. In nearly all these States the adulterous act of the husband is held to be equally criminal with the adulterous act of the wife.

"To the question, 'Is prostitution an evil or a crime?' the answer of our States is thus given. Thirty-seven of our forty-eight States penalise fornication, that is, the illicit sexual

penalized even when proved. For example, in New York State, where adultery is the only cause for divorce, it is frequently admitted in a divorce suit in order to facilitate the securing of a divorce.

In most if not all parts of this country is penalized the use of contraceptive measures, and also the dissemination of information with regard to the prevention of conception. There have been numerous prosecutions under these laws.[4]

intercourse of two persons, whether married or unmarried, and without regard to gain. Three of these States also specifically penalise prostitution, though the crime of fornication clearly includes prostitution. Of the thirteen States which have no statute regarding fornication, one (Maryland) has a statute forbidding fornication of a white person with a negro, and three (New York, Ohio and Pennsylvania) have laws punishing incestuous fornication. As fornication includes prostitution, it is clear that thirty-five states, by implication, class prostitution as a crime." (James Bronson Reynolds, *The Responsibility of Law Makers in the Reduction of Public Immorality*, in the "Report of the Portsmouth Conference of the International Federation for the Abolition of State Regulation of Vice," London, 1914, p. 86.)

[4] In 1914 a woman in New York City was indicted under the Federal law for sending contraceptive information through the mails. The indictment was based partly upon the allegation that such information is "obscene." She fled from the country, but a few months later her husband was arrested for disseminating such information personally and was sent to prison for a short term. Both of these prosecutions were brought about by the late Anthony Comstock, who, during his lifetime was the most notorious and perhaps the most stupid vice crusader in this country. In June, 1916, a man and a woman were arrested in New York on the charge of distributing birth control pamphlets. (See *The New York Times*, June 6, 1916.) In July, 1916, in Boston a man was sentenced to three years in prison for disseminating contracentive infor-

The conventional standard of morality condemns an exposure of the body which oversteps a rather narrow limit. Consequently, there is much repression of what is called indecent exposure. For example, the police frequently prohibit stockingless and skirtless bathing suits for women and one-piece suits for men at the bathing beaches. The police and the courts are constantly regulating the dress of actors and actresses on the stage.

Not only is sex itself repressed but also many things which are incidentally related to sex, such as the discussion of sexual matters in books or on the stage, the nude and other representations in art which suggest sex to the prurient mind. Schroeder has described numerous examples of such repression:—

"In the beginning it seems as though people thought that only bawdry portrayals were to be suppressed. 'Filthy' was the characterization of Congressman Merriam when in 1873 he made a statement in favor of the suppression of the 'obscene.' Such question-begging epithets of course preclude a thoughtless public from the weighing of human liberty against moral sentimentalism, or of considering the evolution of precedents, or even asking for statutory cri-

mation and advocating in print the use of birth control measures. (See *The New York Evening Sun*, July 21, 1916.) On appeal this sentence was reduced to sixty days and later was appealed again.

teria of guilt. A dull and unconcerned populace did not see that the precedents which they applauded would lead to the suppression of all nudity in art, and ultimately to the suppression of all contradiction of the theology of sex. The transition was swift from suppressing what disgusted most people to the suppression of that which could offend only the extreme ascetic, or prude. Boston banished its bronze Bacchante. A copy of 'The Triumph of Charles V,' by Hans Makart, was ordered out of the window of a New York candy-store. A Fifth Avenue art dealer had to conceal a landscape portraying some children discreetly walking away from the beholders. That these pictures had the saving grace of high art did not protect their owners, and these owners, not caring to indulge in the expense of defending human liberty, succumbed to the threat.

"Emboldened by similar successes, the Art Students League catalogue was attacked because of its drawings of nude men. Washington postal authorities had declared it mailable, so an arrest was made under State laws. The defendant was induced to plead guilty on assurance that no appreciable penalty would be inflicted. This also was cheaper than to defend human rights, and thus the seemings of another judicial precedent were established. However, this doubtful victory and the great

publicity given it did not yet give courage for attacking a popular magazine which soon after adorned its title page with the posterior view of nude children. The result might have been different had it been a periodical more generally disapproved, or which had previously and for other reasons excited official condemnation.

"From art to literature was not a far reach. First of course the censors suppressed the purely bawdry literature, as for example, 'Fanny Hill' and 'Memoirs of a Woman of Pleasure.' Thence the extension to 'The Yoke' and 'Three Weeks'; Zola, Boccaccio and Rabelais also have been attacked with varying success, and even lately a woman was arrested in New Jersey for sending to her husband, by mail, a copy of Burns' 'Merry Muses.' In New York a woman, having quarreled with her husband, had him arrested for having mailed her a lascivious letter. Tolstoi's 'Kreutzer Sonata' was suppressed by Postmaster General Wanamaker. Bills have already been introduced to penalize advertisements of liquors and cigarettes, and descriptions of drinking and smoking scenes. Soon we will have a literature that is not only sexless but also drinkless and smokeless. But what good will have come to humanity when all this is achieved? Will sexual and other irregularities really cease in fact because they cannot openly exist in type? Will

justice be more certain and liberty more secure?"[5]

Even the Bible was declared obscene (which it undoubtedly is according to conventional standards) in the following cases:

"Under the laws against 'obscene' literature, one of the first American prosecutions of note was that of the distinguished eccentric, George Francis Train, in 1872. He was arrested for circulating obscenity, which, it turned out, consisted of quotations from the Bible. Train and his attorneys sought to have him released upon the ground that the matter was not 'obscene,' and demanded a decision on that issue. The prosecutor, in his perplexity, and in spite of the protest of the defendant, insisted that Train was insane. . . . In his autobiography, Train informs us that a Cleveland paper was seized and destroyed for republishing the same Bible quotations which had caused his own arrest. (Here, I think, Train must be referring to the conviction of John A. Lant, publisher of *The Toledo Sun*.) Here, then, was a direct adjudication that parts of the Bible are criminally indecent, and therefore unmailable.

"In 1895 John B. Wise, of Clay Center, Kansas, was arrested for sending 'obscene' matter through the mail, which consisted wholly of a

[5] Theodore Schroeder, "'Obscene' Literature and Constitutional Law," New York, 1911, pp. 49–50.

quotation from the Bible. In the United States court, after a contest, he was found guilty and fined."[6]

The censors of literature, art, and the stage in this country are still at work. In 1913 occurred the suppression in Chicago of the innocuous picture entitled *September Morn,* because it represented a nude woman. As usually happens in such cases, this picture received in this fashion a gratuitous advertisement which gave it a sale far greater than its artistic merits would justify. In August, 1916, a man was arrested in New York City for selling a well known medical work, "The Sexual Question," by August Forel.[7]

Plays and moving pictures are constantly being suppressed by the police, vice reformers, and other equally incompetent censors. For example, some years ago Shaw's "Mrs. Warren's Profession" was suppressed by the police in New York City because it deals with prostitution. Brieux' "Les Avariés" ("Damaged Goods") has been suppressed several times in this country because it deals with a venereal disease.

[6] *Op. cit.*, pp. 309–310.

[7] See *The New York Evening Sun,* August 31, 1916. This arrest was made at the instance of the successor of the late Anthony Comstock, who seems to be trying to equal the unenviable record of his notorious predecessor. At the time of the present writing this man is endeavoring to suppress the publication of a novel by a well known American author (Dreiser's "The Genius") on the ground that it is salacious.

In 1913 there was exhibited in New York City a moving picture film which was supposed to depict the white slave traffic. A Sunday school moral was appended to the end of each part of this picture which made it more of a sermon than a work of art. In fact, it was too "moral" in the conventional sense to be artistic. Furthermore, it grossly exaggerated the extent of the white slave traffic. But its lack of artistic quality was not sufficient ground for censorship or suppression, since art must be judged by an esthetic criterion which will always be a matter of opinion. Nor could its misrepresentation of the facts be a justifiable ground for suppression unless it could be proved that such misrepresentation was intentional and injurious to individuals.

However, the American Social Hygiene Association, the leading organization of vice reformers in this country, was shocked at the immorality of this film because it dealt with an immoral subject, to wit, prostitution. Consequently, the counsel for the Association secured the prosecution, indictment, and conviction for a felonious offense of the hapless producer of this moving picture.

I have not the space to cite examples of Puritanical sex regulation and sex repression from other countries. Instances of sex regulation and sex repression occur perhaps as often in England as in this country. But they are much

less frequent in most parts of the European continent.[8]

RESTRICTIONS IN LIBRARIES

It is customary in the libraries of this country to place restrictions upon the use of books dealing with sex.[9] For example, in the reference division of the New York Public Library not only the books ordinarily called "sex books," but also many other works, including some of the best known psychoanalytic treatises,[10] are segregated in one room under a close guard. These books are designated in the catalogue by a distinctive numeral—6, are issued only to persons approved of by the library authorities, and must be read in the "cage."

According to the director of this library, the purpose of these restrictions is to prevent "prurient" individuals from reading these books. The library authorities must indeed be endowed with supernatural insight to be able to discern pruriency or its absence in the minds

[8] And yet even liberal minded France has its Anthony Comstock in the person of Senator Réné Bérenger. (See his "Manuel pratique pour la lutte contre la pornographie," Paris, 1907.) The best that can be said for him is that he is not quite so vulgar as his American prototype.

[9] Similar restrictions are to be found in English libraries. Some years ago Dr. Havelock Ellis informed me that his scientific treatises on sex are kept under lock and key in the Library of the British Museum.

[10] For example, Freud's "Interpretation of Dreams" and Jung's "Psychology of the Unconscious" are on the *Index Expurgatorius* of the New York Public Library.

of those who call for these books! It is greatly to be deplored that the management of this magnificent free library, with its beautiful Pagan architecture, should be marred by these ugly Puritanical restrictions.

In the library of the New York Academy of Medicine, which professes to be a scientific institution, books on sex are doled out one at a time only to approved individuals. According to the librarian, this is to prevent "morbid" persons from reading these books.

Now it is needless to say that there are maladies of sex just as there are maladies of the stomach, and that some of those suffering from sexual disorders may be injured by perusing literature about sex. But to impose these offensive and irksome restrictions upon the public for this reason is like clubbing the dog to death in order to kill a flea. A poisoner may use a book on drugs to help him commit a murder, but that is no reason for prohibiting all books on drugs. A sadist may derive enjoyment from reading an account of a brutal act, but that does not justify the prohibition of all historical works which describe acts of cruelty.

In fact, however useful an article may be, it is possible to misuse it. The problem with regard to sex books, as with regard to everything else, is as to whether or not their abuse will exceed their use. Librarians are wont to allege that they should be used by scholars and

specialists on sex, but not by the general public. They display much trepidation lest, perchance, some readers may derive enjoyment from reading these books, overlooking the fact that numerous readers derive a vast amount of sexual pleasure from reading many of the books of fiction, poetry, etc., in the libraries.

I need not point out again the importance of sex in the life of mankind. In view of its importance every human being should have some knowledge of its nature and functions. Consequently, the libraries, instead of endeavoring to perpetuate the puerile and evil traditions of taboo and ignorance, should willingly and gladly furnish literature on sex to all sexually mature persons. The libraries and schools should become centers for the dissemination of knowledge on this subject, as on every other important subject. And inasmuch as the schools at present fail almost entirely to perform this function, it is all the more essential that the libraries should do it effectively.

If this liberal and enlightened policy were followed, most of the pruriency and morbidity which the librarians fear would disappear. Pruriency arises mainly out of ignorance and repression, and by far the worst form of pruriency is that of the would-be moralists who do the repressing.[11] And if some of the readers

[11] The Swiss pastor-psychoanalyst, Pfister, characterizes these moralists as follows:—"Fanaticism over morality is often

can derive enjoyment from sex literature, so much the better. Life is dreary enough at best for most persons without destroying any more sources of pleasure.

There is still another important aspect to this form of sex regulation which should not be overlooked. One of the most fundamental of human rights is the right to the knowledge which is the common heritage of mankind. What right then have librarians and directors of libraries to withhold the sources of this knowledge from the public? Such restrictions can be justified only in the case of young children, who are easily recognizable, and of some of the mentally incompetent, such as the insane and the feebleminded whose mental disabilities are peculiarly related to sex, most of whom are already under custodial care. So that there is no need of a censorship in the libraries, and such a censorship is a gross insult to the public; while to deprive any one of the sources of knowledge is to violate the above-mentioned fundamental right. It would be well if this question could be tested in the courts. And if the courts fail to uphold this right, legislation should be enacted which would safeguard it.

In fact, these restrictions upon the dissemination of knowledge on this subject constitute

merely a refuge for weak voluptuaries who are afraid of sinking in the mire of wickedness." (Oskar Pfister, "The Psychoanalytic Method," New York, 1917, p. 321.)

another manifestation of the age-long taboo upon sex which has arisen from the magical and religious notion that there is something evil in sex *per se*.

CHAPTER XI

THE EVILS OF SEX REPRESSION

Like almost every other part of human nature, the sexual instincts, feelings, and sentiments require a certain amount of regulation. Such regulation is needed both in the interest of the individual and in the interest of society.

Conflict arises in man's sexual nature as in other parts of his nature. The desire for sexual gratification often leads to excessive indulgence which in turn leads to a satiety which dulls the capacity for further enjoyment. Continued excessive indulgence leads to a permanent diminution or even a complete loss of virility, and may give rise to grave physiological and mental disorders. Careless and injudicious sexual indulgence may result in the acquisition of an injurious and troublesome disease. The gratification of a passing sexual whim may injure greatly a permanent sexual bond which is far more satisfactory in the long run. The play function and the reproductive function of sex are very likely to conflict if they are not recognized and understood and adjusted to each other in an intelligent manner.

The sexual impulse is very powerful and fre-

quently becomes ungovernable. Drastic regulatory measures are required to protect the individual and society against the genuine sex offenses enumerated in the preceding chapter. Rape and abduction for sexual purposes should be and usually are grave crimes. All sex relations obtained under false pretenses should be severely punished. Sex relations between persons closely related by blood should be prohibited. The sexually immature should be protected in their weakness and ignorance. The spread of venereal diseases should be restrained as far as is feasible.

But it is the human and social tendency to go too far in its regulation of sex as in its regulation of other parts of man's nature. Much of the sex legislation which I have noted is unwise because it is unenforceable. Such legislation gives rise to disrespect for the law, police and political corruption, and various other social evils. Furthermore, even when sex legislation is enforceable, it frequently furnishes the opportunity for criminal conduct, such as blackmail, and leads to various other evils.

INVASIVE SEX LEGISLATION

Sex legislation is usually too sumptuary in its character. The sex life of mankind belongs to the most private and intimate part of the life of the individual. Consequently, while there are several evils in the sex life of mankind

which it would be desirable to prevent, it is usually very dangerous to attempt to do so by invading the private life of the individual. On account of their seriously invasive character, direct regulatory measures almost invariably do more harm than good. Sexually mature persons should be left free in the main in their sex life, and dependence should be placed upon indirect measures for the prevention of the evils which arise.

Most of the sex legislation and much of the regulation which arises out of custom, public opinion, and conventional moral ideas leads to an excessive and abnormal degree of sex repression. Such repression gives rise to numerous physical and mental ills which will be described presently.

In the preceding chapter I have cited the "White Slave Traffic Act" enacted by Congress in 1910. Under this law many men and women have suffered the pain and ignominy of prosecution, conviction, and punishment by fine and imprisonment for acts which had not the remotest connection with the white slave traffic, and which by many intelligent persons possessing high ethical standards would not even be regarded as immoral. It is an almost unparalleled example in a so-called "free" country of attempting to repress by law what is alleged to be immoral in private life, and of placing a most dangerous power in the hands of the fed-

eral courts. This power has already been grossly misused by these courts.

But the infamies of this law are not limited to the injury which it does directly to its victims. It has perhaps caused even more harm indirectly. When the law was enacted it was obvious to every enlightened individual who knew of it that it was an excellent instrument for the purposes of blackmail. Subsequent events have proved the truth of this prediction. It is now known that with the aid of this law many of these sinister crimes have been committed, and that millions of dollars have been secured in this foul trade.[1]

[1] A well known American detective, W. J. Burns, testifies to this fact in the following words:—

"The Mann White Slave act has been a splendid help to the crooks; the act was conceived with the best of motives, but the moment that it became a law the crooks saw the wonderful opportunities that it opened up to them. They had only to cause their victim to take one of the female members of their gang over a State line; the rest was easy." (*Blackmailing now the Big American Crime*, in *The N. Y. Times Magazine*, July 23, 1916.)

Burns expresses the opinion, that owing to the European war and the profitableness of the crime, blackmailing has become the leading crime in this country:—

"Blackmail is the big crime in the United States today. More money is being extorted through blackmail than is being lost through thievery. A thousand expert gangs collected hush money from the wealthy during the past year. The total of the sums which have been paid runs into the millions for the prosperous year of 1915; thousands of dollars are being paid every day."

"The war has made blackmail unprofitable in Europe; the wealthy Englishmen and Frenchmen who contributed to the gangs of London, Paris, and Monte Carlo are now uniformed

At the present time of writing the police agencies of the Federal Government have under arrest many of these blackmailers who have been enabled to commit their crimes by this law of the same government. (See *The New York Times,* September 18 and 19, 1916; and all other newspapers of about the same dates.) It has, therefore, been appropriately stigmatized as the "Encouragement of Blackmail Act" (Editorial in *The New York Times,* September 20, 1916), and as "a provocative to crime" (Editorial in *The New York Evening Sun,* September 18, 1916).

The laws against fornication and adultery are rarely ever enforceable. The practise of fornication is widespread in nearly every community. So that even if only a comparatively small proportion of these offenders were detected and imprisoned, the jails and prisons would be filled many times over. In similar fashion, adultery is rarely ever punished, in spite of the fact that it often serves as the basis for a divorce.

These invasive laws constitute grave viola-

and in the trenches, safe from the lures of the sirens; and then the military governments make short shift of those who try to get the soldiery into trouble. The general atmosphere of Europe being so unpleasant and so unprofitable, many of these international blackmailers have followed the trail of prosperity to New York."

"The 'best' criminals in the world are turning to blackmail; they find that it is safe, needs little exertion, and is most profitable. It has all the desirable features of crime."

tions of the rights of the individual to form sex relationships within or outside of marriage. It is to be hoped that the criminal laws against fornication and adultery will before long be stricken forever from our statute books. Adultery as a breach of the marriage contract will then become a tort like the breach of any other civil contract. Thus will the religious element be eliminated from marriage, because it will no longer be regarded as a sacred bond which it is a sin to break, but as a mutual agreement to be adjusted between the parties concerned.

Furthermore, the abolition of the law against adultery will help to remove the idea of property right which still inheres to a considerable extent in marriage. Ferri has expressed this thought eloquently in the following words: "L'adultère du mari ou de la femme ne devrait pas être considéré comme une atteinte à la propriété, mais comme une insupportable déloyauté.—Il est absurde ou barbare de réagir violemment contre l'homme ou la femme adultère: il est humain de l'abandonner, de répondre par la séparation à la trahison hypocrite. . . . Mais ce qu'il y a de vil dans l'adultère, ce n'est pas l'atteinte portée à une 'propriété individuelle': c'est la déloyauté de l'acte, sa sournoiserie, son hypocrisie. Franchement avoué, c'est un malheur comme un

autre, ce n'est plus une action répugnante.'' [2]

It is well known to every educated person that there is no innate sense of modesty. As a matter of fact, there is the highest possible degree of variation in the amount of clothing worn by human beings in different parts of the world. Clothing should be regulated by climatic, hygienic, economic, and esthetic considerations, and not by moral dogmas and penal laws. There can be no justification of legal regulation of exposure of the body, with the possible exception of sexual exhibitionism.

The regulation of literature and art by the law or by public opinion is almost entirely mischievous and harmful. It is the peculiar function of scientists and artists to think along original lines and to give new ideas to society from which the useful ones can be selected and applied. Hence it is dangerous to place restrictions upon scientists and artists in the performance of this valuable function.[3]

[2] E. Ferri, "Les criminels dans l'art et la littérature," Paris, 1897, p. 141.

[3] The mental attitude and moral prejudices of the voluntary censors in this country are well indicated in a pamphlet issued by the National Board of Censorship of Motion Pictures. ("The Policy and Standards of the National Board of Censorship of Motion Pictures," New York, 1914.) This Board, while it has no legal authority, has unfortunately acquired a good deal of control over the moving picture films produced in this country. According to this pamphlet, among the numerous kinds of censoring performed by the Board are:—the suppression of vulgarity that "borders on immorality or indecency,"

Schroeder calls attention to the important fact that, owing to the danger of censorship and suppression, many useful books fail even to be published: "This then, is a partial record of useful things coming under the ban of our censorship of literature. Some other books as valuable as the best of those which have been herein mentioned, I cannot speak of, because the authors and publishers prefer that no mention should be made of the fact. The most injurious part of this censorship, however, lies not in the things that have been suppressed, as against the venturesome few who dare to take a chance on the censorship, but rather on the innumerable books that have remained unwritten because modest and wise scientists do not care to spend their time in taking even a little chance of coming into conflict with an uncertain statute, arbitrarily administered by laymen to the medical profession, in which profession are many not over-wise and sometimes fanatical zealots in the interest of that asceticism which is the crowning evil of the theology of sex." [4]

the curtailment of prolonged passionate love scenes, the prohibition of "insufficient" and "suggestive" clothing, the censoring of infidelity and sex problem plays in criticizing which the Board insists that "the recognized standards of sex morality be upheld," the censoring of plays dealing with prostitution, etc.

It may, however, be said in behalf of the Board that there is some justification for the way in which it censors pictures which are suggestive of and may incite to crimes.

[4] T. Schroeder, "'Obscene' Literature and Constitutional Law," New York, 1911, p. 73.

PATHOLOGICAL RESULTS FROM SEX REPRESSION

The evil results from the contemporary excessive sex repression and regulation are to be witnessed on every hand. Excessive sex repression leads to both the extremes of sexual abnormality, namely, erotophobia and erotomania. The fear of sex which is likely to be aroused by the ideas and beliefs which underly such repression leads to sexual frigidity and various psychiatric diseases, such as hysteria, psychasthenia, certain forms of insanity, etc. These erotophobic results of sex repression are perhaps more frequent among women than among men for physiological as well as social reasons, because sex plays a more important part in the physiology of women.

On the other hand, excessive sex repression drives many persons to the other extreme. If unusual difficulties are placed in the way of the satisfaction of sexual desires, these desires may become irritated and accentuated to a high degree, and an abnormal interest in sex may be aroused. The gravest manifestations of this erotomania are in the forms of rape, abduction, seduction, various sexual perversions, etc. Its milder manifestations are in the forms of pornographic art and literature, undue emphasis upon sex in literature and art, the exaggerated rôle played by sex upon the stage, etc. All of these pathological manifestations are indica-

tions of suppressed sexual desires struggling to express and gratify themselves. Indeed, the somewhat hectic quality of our modern civilization is undoubtedly due in part to excessive sex repression. So that the ascetics, prudes, vice crusaders, and all other persons with prurient minds who are zealously engaged in trying to suppress these manifestations of sex are themselves to blame for them at least in part.[5] The only effective preventive of both erotophobic and erotomanic manifestations is a satisfactory sex life for all human beings.

These psychiatric conditions will inevitably give rise to physiological injury. When the repression of the sexual instincts and feelings results in insanity or a neurotic state, it is evident that a pathological condition of the nervous system has arisen. Furthermore, this neural pathological condition is almost certain to be accompanied by or to give rise to other physiological disturbances, such as disturbances of digestion, of circulation, etc. And even when the repression of the sexual instincts and feelings results merely in mental complexes which harass the victim of the sex repression, these complexes are sure to give rise to a physiological strain which decreases at least to a

[5] In the last sentence I have used the adjective "prurient" advisedly, for there is plenty of psychological evidence that the persecution mania of the vice crusader arises largely if not entirely out of his own unconsciously suppressed sexual desires.

slight extent the physical efficiency of the individual.

So that total or long continued sexual abstinence, while it will not ordinarily make a person of average strength and health ill, or even have an appreciable harmful effect upon the sexual organs, is certain to cause at least a small amount of physical and mental injury by its disturbing influence upon the physiological state of the individual. The ideal sexual régime is a continent use of sexual intercourse without going to the extreme of incontinence, which unquestionably is harmful to every one.

There can be no universal rule as to the desirable frequency of sexual intercourse, since this depends upon the circumstances and peculiar traits of the individual. Furthermore, it must be remembered that the distinction between continent and incontinent sexual intercourse is biological and mental and not legal and moral, so that the circumstance of whether or not the sexual intercourse is within or outside of marriage is immaterial and inconsequential with respect to the question of whether it is continent or incontinent.

Among the worst pathological results from an excessive degree of sexual abstinence are the sexual variations or aberrations, popularly known as perversions. These aberrations usually arise by means of the sexual impulse be-

coming directed towards objects other than the normal object because the normal object is not available, though in some cases they arise as a result of excessive sexual indulgence. These aberrations replace or displace the normal heterosexual relation. They include homosexuality in which the sexual impulse is directed towards individuals of the same sex, pederasty in which it is directed towards the sexually immature, bestiality in which it is directed towards animals, and sexual fetishism in which it is directed towards inanimate objects. Owing to the enforced and long continued abstinence, prison life furnishes numerous highly developed examples of these sexual aberrations.[6]

[6] It is strange indeed how few references are made to this important phase of prison life in criminological literature. This is doubtless due in part to prudishness, as well as to a failure to appreciate its significance. Even those who have described their own prison life have failed to describe this feature of prison life. This is probably due in part to prudishness, but also to prudential considerations. A notable exception is the anarchist Berkman who spent fourteen years (1892–1906) in the Western State Penitentiary of Pennsylvania near Pittsburgh for attempting to kill Henry C. Frick. This prison is conducted in the main upon the principle of solitary confinement, which is peculiarly prone to develop these sexual abnormalities. According to his graphic account the administration of this prison was brutal in the extreme.

Berkman devotes three chapters of his prison memoirs to the development of sexual abnormalities in prison, namely, Chapter XV on "The Urge of Sex," Chapter XXVII on "Love's Dungeon Flower," and Chapter XLIII on "Passing the Love of Woman." The last is especially important since it describes the evolution of homosexuality in prison. (Alexander Berkman, "Prison Memoirs of an Anarchist," New York, 1912.)

Sexual abstinence results much more frequently in auto-erotism in the form of masturbation. Probably in most of these cases the degree of auto-erotism is comparatively slight

I will quote from Berkman's account of a conversation he had with an unusually intelligent prisoner who had spent many years in prisons and who had passed through the usual stages of sexual abnormality. This prisoner gives a vivid description of these stages:—

"Well, the first is the dejection stage. Hopeless and despondent, you seek forgetfulness in onanism. You don't care what happens. It's what I might call mechanical self-abuse, not induced by actual sex desire. This stage passes with your dejection, as soon as you begin to take an interest in the new life, as all of us are forced to do, before long. The second stage is the psychic and mental. It is not the result of dejection. With the gradual adaptation to the new conditions, a comparatively normal life begins, manifesting sexual desires. At this stage your self-abuse is induced by actual need. It is the more dangerous phase, because the frequency of the practice grows with the recurring thought of home, your wife or sweetheart. While the first was mechanical, giving no special pleasure, and resulting only in increasing lassitude, the second stage revolves about the charms of some loved woman, or one desired, and affords intense joy. Therein is its allurement and danger; and that's why the habit gains in strength. The more miserable the life, the more frequently you will fall back upon your sole source of pleasure. Many become helpless victims. I have noticed that prisoners of lower intelligence are the worst in this respect. . . .

"About homosexuality. I have spoken of the second phase of onanism. With a strong effort I overcame it. Not entirely, of course. But I have succeeded in regulating the practice, indulging in it at certain intervals. But as the months and years passed, my emotions manifested themselves. It was like a psychic awakening. The desire to love something was strong upon me. Once I caught a little mouse in my cell, and tamed it a bit. It would eat out of my hand, and come around at meal times, and by and by would stay all evening to play with me. I learned to love it. Honestly, Aleck, I cried when it died. And then, for a long time, I felt as if there was a void in my heart. I wanted something to love. It just swept

and the masturbation causes little if any injury. But in some cases the tendency to masturbate is indulged to an excessive extent and does much harm. In a few of these cases it leads to sexual exhibitionism.

me with a wild craving for affection. Somehow the thought of woman gradually faded from my mind. When I saw my wife, it was just like a dear friend. But I didn't feel toward her sexually. One day, as I was passing in the hall, I noticed a young boy. He had been in only a short time, and he was rosy-cheeked, with a smooth little face and sweet lips—he reminded me of a girl I used to court before I was married. After that I frequently surprised myself thinking of the lad. I felt no desire toward him except just to know him and get friendly. . . . I did not realize it at the time, Aleck, but I know now that I was simply in love with the boy; wildly, madly in love. It came very gradually. For two years I loved him without the least taint of sex desire. It was the purest affection I ever felt in my life. It was all-absorbing, and I would have sacrificed my life for him if he had asked it. But by degrees the psychic stage began to manifest all the expressions of love between the opposite sexes. I remember the first time he kissed me. It was early in the morning; only the range-men were out, and I stole up to his cell to give him a delicacy. He put both hands between the bars, and pressed his lips to mine. Aleck, I tell you, never in my life had I experienced such bliss as at that moment. It's five years ago, but it thrills me every time I think of it. It came suddenly: I didn't expect it. It was entirely spontaneous: our eyes met, and it seemed as if something drew us together. He told me he was very fond of me. From then on we became lovers. I used to neglect my work, and risk great danger to get a chance to kiss and embrace him. I grew terribly jealous, too, though I had no cause. I passed through every phase of a passionate love. With this difference, though—I felt a touch of the old disgust at the thought of the actual sex contact. That I didn't do. It seemed to me a desecration of the boy, and of my love for him. But after a while that feeling also wore off, and I desired sexual relation with him." (Alexander Berkman, "Prison Memoirs of an Anarchist," New York, 1912, pp. 435–439.)

But probably the most widespread evil result from sexual abstinence is psychic sexual impotence. The ability to have normal and satisfactory sex relations diminishes, though there is not necessarily any decrease in the ability to procreate. In other words, there develops *impotentia cœundi,* but not *impotentia generandi.*[7] Sexual impotence means a decrease in the virility and therefore the vigor of mankind. It injures greatly the play function of sex. In all probability it is the most harmful social evil arising from sexual abstinence.

SEX REPRESSION OPPOSED TO THE IDEAL SEX RELATION

The prevailing moral ideas and forms of social control do not promote the best type of sex relationship. It is evident that this relation among human beings exists for the purpose of fulfilling the play function of sex, which can be attained only by suitable sexual mating, and for the purpose of reproduction.

Religion, and especially Christianity through its baneful ascetic influence, has by making marriage a sacrament shifted the emphasis from the sex relation as a natural union, to be judged and regulated according to the compatibility of the parties to the union for fulfilling these functions of sex, to a mystical and mythical rela-

[7] See W. J. Robinson, *Our Sexual Misery,* in *The Medical Critic and Guide,* August, 1917, pp. 285–297.

tion. And even the secular conception of marriage has altogether too frequently regarded it as an artificial product of the law, instead of a biological, psychological, and social phenomenon which exists prior to law, and which is simply registered and officially recognized by the law like all other civil contracts.

One of the worst results from the conventional conception of marriage is that it fosters the profoundly erroneous notion that there is an intrinsic difference between sexual intercourse within and outside of wedlock. Extra-matrimonial sex relations are stigmatized as lewd and incontinent as contrasted with matrimonial relations which are supposed to be pure and continent *per se*. It is obvious that biologically there could be no such intrinsic difference.

As a matter of fact, there is vastly more incontinence within marriage than there is outside of it, and the average unmarried person is far more continent than the average married person. Furthermore, it frequently happens that extra-matrimonial sex relations are purer than most matrimonial relations in the only true meaning of sex purity, namely, as a spontaneous gratification of erotic desires and expression of genuine personal feelings. It is infinitely more important for the normal and healthy sex life of mankind that such spontaneous sex relations should be encouraged than

that the prevailing type of conventional marriage should be preserved.

PROHIBITION OF BIRTH CONTROL

As I have already stated in Chapter IX, the ascetic denial of the play function of sex has enthroned the dogma of sexual intercourse solely for the purpose of reproduction, and has resulted in the legal prohibition of abortion and contraceptive measures as methods of controlling procreation. This religious dogma has been reënforced and mightily strengthened by capitalistic and militaristic interests which have desired cheap labor and human food for cannon. It must be replaced by the humane and social doctrine that reproduction is primarily a matter of choice for the individual parents, and that unwilling or unexpected procreation is inhuman and anti-social.

It is possible that the opposition to the use of birth control methods has a slight biological basis in an unconscious desire for parenthood universal in mankind. This desire doubtless has great social value and should be cultivated. In an ideal society every individual would have the opportunity to gratify this desire. But under actual conditions parenthood is frequently a burden and an evil, and under such conditions it is a grave injustice to the offspring to permit them to come into the world.

As soon as contraceptive methods can be used freely, unwilling and unexpected pregnancies will become rare, so that abortion will become rarely necessary. Thus will be obviated this operation which is so frequently made necessary today by the stupid and brutal prohibition of contraceptive measures, an excellent instance of how one criminal law may be responsible for violations of another law. The disappearance of abortion will be a great boon, because this operation is physically dangerous to the woman and shocking to her maternal instincts and feelings. Furthermore, it is offensive and obnoxious to the deeply rooted sentiment of the supreme value of human life which is more or less widespread in society.

It would be an insult to the readers of this book to assume that they are not acquainted with the vast social and moral importance of the problem of population.[8] Birth control measures are directed towards regulating the growth of population intelligently. To attempt to prevent the use of these measures by penal restrictions, and to repress the free discussion of such measures is an exhibition of crass stupidity which is fraught with a vast amount of injury to society.

The only social regulation of reproduction which is justifiable at the present time is the

[8] I have discussed the problem of population at considerable length in my "Poverty and Social Progress," New York, 1916.

prohibition of reproduction for a few congenitally abnormal types. If the time ever comes when the world reaches absolute over-population, it may become necessary to place a general check upon reproduction. But such a time is far distant in the future, and probably will never come.

CHAPTER XII

THE DOUBLE STANDARD OF SEX FREEDOM

One of the most striking features of the sex life of mankind is the double standard of sex freedom. This standard discriminates against woman and in favor of man by giving man more freedom in his sex relations. In civilized society the same moral regulations with respect to sex exist in theory for both sexes. But in practise transgressions of these regulations by man are usually readily condoned, while similar transgressions by woman are severely reprehended.

The existence of the double standard is generally recognized. Furthermore, it is almost invariably bitterly denounced by religionists and professional moralists. But few if any attempts have been made to explain it. So far as I am able to discover after an extensive research, no adequate analysis of the origin and causes of the double standard of sex freedom has ever been made. This singular state of affairs is probably due to the fact that most writers have been prevented by religious prejudices and a moral bias from discussing the subject impartially. And yet it is obviously im-

possible to appraize the double standard correctly without an understanding of its origin and causes.

This double standard is by no means a new feature of the life of mankind. On the contrary, among many savage and barbarous peoples the male sex has had more freedom in its sex relations than the female sex. Promiscuity before marriage has frequently been permitted for both sexes or for the male sex alone, but has been prohibited after marriage for both sexes or for the female alone. Or promiscuity has been forbidden before marriage for both sexes or for the female alone, but has been permitted after marriage for both sexes or for the male alone. There has apparently been more freedom on the whole for the male than for the female. Rarely ever has there been more freedom for the female. This may have happened in a few cases under polyandry. But polyandry has been very rare, while polygyny has been much more frequent.

There is, however, an important distinction between the moral status of the double standard of sex freedom in savage and barbarous society and in civilized society. The double standard has usually been recognized and approved by savage and barbarous moral codes, while it has almost invariably been denounced by the conventional civilized codes. Consequently, the double standard has been applied more frankly

and openly among savage and barbarous peoples than in civilized society.

THE EVOLUTION OF THE DOUBLE STANDARD

The fundamental factor in creating the double standard of sex freedom is the physiological dissimilarity of the sexes which gives rise to the difference in the rôles of the sexes in reproduction. It was to be expected that as soon as mankind discovered the connection between sexual intercourse and reproduction, sex relations would be regulated for the purpose of controlling reproduction. It is strange indeed that this obvious fact has been ignored in most discussions of this subject.

The purpose of controlling reproduction has sometimes been to restrain too rapid a growth of population, but usually to compel reproduction within the forms and in the manner prescribed by society. In other words, the main purpose of such regulation has been to compel reproduction within marriage, thus discouraging bastardy.

Inasmuch as sexual intercourse involves the risk of pregnancy for woman, and as procreation has a much greater effect upon woman and is much more dangerous for her than for man, these regulations would inevitably have a more drastic effect upon her than upon him.[1] Such

[1] Sumner refers very briefly and rather vaguely to the influence of the physiological differences between the sexes in the following words:—

regulation has, therefore, been partly for the protection of woman herself, as well as for the control of reproduction.

Male sexual jealousy has probably been another important factor for the double standard of sex freedom. In fact, it is possible that this factor gave rise to a double standard before the connection between sexual intercourse and reproduction was discovered by man. Some writers have believed that jealousy developed from the sense of ownership which may have originated after the discovery of the connection between sexual intercourse and reproduction.[2] However, psychology seems to indicate that sexual jealousy is a more or less powerful emotion innate in man. Consequently, it doubtless began very early in the life of mankind to lead men to monopolize women and to restrict them from free sex relations. But the sense of ownership which was gradually acquired reacted upon the primal emotion of jealousy and enhanced its strength.

Male sexual jealousy doubtless furnished man

"Woman bears an unequal share of the responsiblities and duties of sex and reproduction just as man bears an unequal share of the responsibilities and duties of property, war, and politics. The reasons are in ultimate physiological facts by virtue of which one is a woman and the other is a man." (W. G. Sumner, "Folkways," Boston, 1907, p. 362.)

[2] Hartland expresses this view when he says that "the sense of ownership has been the seed-plot of jealousy." (E. S. Hartland, "Primitive Paternity," London, 1910, Vol. II, pp. 102–103.)

a powerful incentive for restricting woman in addition to the economic reasons for subjugating her. He was aided in attaining this end by his superior physical strength and by the helplessness of woman during child bearing and child rearing.[3] Some writers also allege that he was aided by a mental superiority over woman. But this is a moot question which we need not discuss here.

In barbaric society there developed the patriarchal system which subjected woman more or less effectually to man. Mrs. Gallichan attributes the double standard of sex freedom largely if not entirely to the subjugation of woman under the patriarchal system:—"Sexual penalties for women are always found under a strict patriarchal régime. The white flower of chastity, when enforced upon one sex by the other sex, has its roots in the degradation of marriage. Men find a way to escape; women, bound in the coils, stay and waste. There is no escaping from the truth—wherever women are in subjection it is there that the idols of purity and chastity are set up for worship."[4]

[3] A rather unusual explanation of male dominance is to the effect that it is due to the ascendancy of man in phallic worship, owing to the fact that he possesses visible sexual organs, and to the relative position habitually assumed by men and women in coïtus. (T. Schroeder, *Psycho-Genetics of Androcratic Evolution*, in the *Psychoanalytic Review*, Vol. II, No. 3, July, 1915, pp. 277–285.)

[4] Catherine Gasquoine Hartley Gallichan, "The Truth about Woman," London, 1913, p. 226.

But the factors I have already described indicate that the double standard probably antedated the patriarchal system. The physiological differences between the sexes and male sexual jealousy must have brought the double standard into existence before the patriarchal system originated. The patriarchal system, however, doubtless strengthened greatly the double standard of sex freedom, because woman had now become practically a chattel of man.

While the patriarchal system has disappeared in the main from civilized society, the economic dependence of woman which formed an important part of it still remains to a large extent. In recent times woman has gained a certain amount of economic independence. But this development has not progressed far enough to give her complete freedom in marriage. So that marriage has not yet attained the ideal of a free contractual relation which existed for a time in ancient Rome and which is re-appearing in modern civilization. Westermarck has described this episode in Roman history as follows:—

"In Rome, in ancient times, the power which the father possessed over his daughter was generally, if not always, by marriage transferred to the husband. When marrying a woman passed in *manum viri,* as a wife she was *filiæ loco,* that is, in law she was her husband's daughter. . . . Gradually, however, marriage

with *manus* fell into disuse, and was, under the Empire, generally superseded by marriage without *manus,* a form of wedlock which conferred on the husband hardly any authority at all over his wife. Instead of passing into his power, she remained in the power of her father; and since the tendency of the later law, as we have seen, was to reduce the old *patria potestas* to a nullity, she became practically independent.

"This remarkable liberty granted to married women, however, was only a passing incident in the history of the family in Europe. From the very first Christianity tended to narrow it. . . . And this tendency was in a formidable degree supported by Teutonic custom and law. Among the Teutons a husband's authority over his wife was the same as a father's over his unmarried daughter. This power, which under certain circumstances gave the husband the right to kill, sell, or repudiate his wife, undoubtedly contained much more than the Church could approve of, and so far she has helped to ameliorate the condition of married women in Teutonic countries. But at the same time the Church is largely responsible for those heavy disabilities with regard to personal liberty, as well as with regard to property, from which they have suffered up to recent times."[5]

[5] E. Westermarck, "The Origin and Development of the Moral Ideas," London, 1906, Vol. I, pp. 652–4.

There is evidence that women attained and possessed for a

ASCETICISM

Christianity by making marriage a sacrament and by opposing divorce has endeavored to fetter woman in marriage, and her economic dependence has enabled this religion to succeed in a large measure. By so doing Christianity has caused women an untold amount of unhappiness. It should also be remembered that it has caused many men a vast amount of misery, because the bonds of marriage have in many cases been irksome to men as well as to women.

The Christian attitude towards sex is an illustration of certain magical and religious ideas with respect to sex. Sexual phenomena have always been more or less mysterious to man, especially to primitive man. Consequently, he has viewed them with mingled feelings. While

time a similar freedom in Babylon and ancient Egypt, as is pointed out by Havelock Ellis in the following words:—

"Nothing is more certain than that the status of women in Rome rose with the rise of civilisation exactly in the same way as in Babylon and in Egypt. In the case of Rome, however, the growing refinement of civilisation and the expansion of the Empire were associated with the magnificent development of the system of Roman law, which in its final forms consecrated the position of women. In the last days of the Republic women already began to attain the same legal level as men, and later the great Antonine jurisconsults, guided by their theory of natural law, reached the conception of the equality of the sexes as the principle of the code of equity. The patriarchal subordination of women fell into complete discredit, and this continued until, in the days of Justinian, under the influence of Christianity the position of women began to suffer." ("Sex in Relation to Society," Philadelphia, 1911, p. 395.)

sexual experiences have afforded him much pleasure, their mysterious character has inspired fear in him. This fear has furnished one of the incentives for putting restrictions upon sex.

Furthermore, some features of the sexual function have aroused disgust as well as fear in man. This has been especially true of the flow of blood in woman at various crises in her life, such as the hymenal flow in connection with puberty, the menstrual flow at the times of the periodic catamenial function, and the puerperal flow at parturition. Primitive man seems at any rate to have felt fear if not disgust towards blood. So that these features of the sexual function have played an important part in giving rise to the notion which is still more or less prevalent that there is something repellent and unclean about sex, especially in woman. The sexual taboos both of the past and of the present can be attributed to a large extent to this notion.

The principal source of the Christian religion is to be found in Judaism which contains many of these magical and religious ideas with respect to sex. For example, the notion of the uncleanness of sex plays a prominent part in the Hebrew religion. Consequently, a considerable portion of the Jewish law is devoted to the regulation of sex with respect to its uncleanness. The following passages from the

Old Testament illustrate this part of the Jewish law.

Leviticus XV describes the uncleanness of the sexual issues of men and women and prescribes how they are to be cleansed:—"And if any man's seed of copulation go out from him, then he shall wash all his flesh in water, and be unclean until the even. . . . The woman also with whom man shall lie with seed of copulation, they shall both bathe themselves in water, and be unclean until the even. And if a woman have an issue, and her issue in the flesh be blood, she shall be put apart seven days: and whosoever toucheth her shall be unclean until the even. . . . And if any man lie with her at all, and her flowers be upon him, he shall be unclean seven days; and all the bed whereon he lieth shall be unclean." This law reveals the notion of the greater sexual uncleanness of woman, and of how man may be defiled by her uncleanness.

Leviticus XII specifies how women are to be purified after childbirth:—"And the Lord spake unto Moses, saying, Speak unto the children of Israel, saying, If a woman have conceived seed, and borne a man child: then she shall be unclean seven days; according to the days of the separation for her infirmity shall she be unclean. . . . But if she bear a maid child, then she shall be unclean two weeks, as in her separation: and she shall continue in the blood of her purifying threescore and six days."

This law reveals the inferior position of woman and the belief in the greater uncleanness of sex in woman, for it was apparently more defiling to give birth to a female child than to give birth to a male child.

In the Christian religion these ideas imported from Judaism developed into a form of asceticism which exalted celibacy. For example, in *Revelations* XIV, 4, it is said:—"These are they which were not defiled with women; for they are virgins." Throughout the New Testament the dominant theme with respect to sex is that sex is unclean; that virginity and chastity are highly meritorious; that the flesh, by which is usually meant sex, is antagonistic to the spirit; and that marriage is a grudging and questionable concession to the flesh.[6]

The Christian attitude towards sex is well

[6] Westermarck states the Christian ascetic doctrine with respect to sex as follows:

"For a nation like the Jews, whose ambition was to live and to multiply, celibacy could never become an ideal; whereas the Christians, who professed the most perfect indifference to all earthly matters, found no difficulty in glorifying a state which, however opposed it was to the interests of the race and the nation, made men pre-eminently fit to approach their god. Indeed, far from being a benefit to the kingdom of God by propagating the species, sexual intercourse was on the contrary detrimental to it by being the great transmitter of the sin to our first parents. . . . Religious celibacy is, moreover, enjoined or commended as a means of self-mortification supposed to appease an angry god, or with a view to raising the spiritual nature of man by suppressing one of the strongest of all sensual appetites. Thus we find in various religions celibacy side by side with other ascetic observances practised for similar purposes. . . . Finally, it was argued that marriage prevents a

stated in the Pauline epistle, *I Corinthians* VII, as will be seen from the following excerpts:—

"It is good for a man not to touch a woman. Nevertheless, to avoid fornication, let every man have his own wife, and let every woman have her own husband. . . . I say therefore to the unmarried and widows, It is good for them if they abide even as I. But if they cannot contain, let them marry: for it is better to marry than to burn. . . . He that is unmarried careth for the things that belong to the Lord, how he may please the Lord: but he that is married careth for the things that are of the world, how he may please his wife. There is difference also between a wife and a virgin. The unmarried woman careth for the things of the Lord, that she may be holy both in body and in spirit: but she that is married careth for the things of the world, how she may please her husband."

The utterances of the greatest apostle of Christianity, Paul, did much to establish firmly this anti-social and highly immoral doctrine in the Christian religion, and thus to carry it into Occidental civilization.

person from serving God perfectly, because it induces him to occupy himself too much with worldly things. Though not contrary to the act of charity or the love of God, says Thomas Aquinas, it is nevertheless an obstacle to it." (E. Westermarck, *op cit.*, Vol. II, pp. 420–421.)

See also, for a discussion of asceticism in Judaism, Christianity, Mohammedanism, and other religions, W. G. Sumner, "Folkways," Boston, 1907, Chap. XVIII.

CHRISTIANITY AND SEXUAL HYPOCRISY

The Christian ascetic doctrine has had many evil results. It has served as an additional factor to degrade woman, because woman is generally regarded as symbolizing sex much more than man. It is ordinarily claimed by the official representatives of Christianity that this religion has raised the position of woman through its humanitarian doctrines. But it is very doubtful if the Christian religion has benefited woman more by its amiable tenets than it has injured her by its asceticism.[7]

In theory Christianity preaches the same standard of sex freedom for both sexes. But, as might have been expected, it has failed utterly in practise to maintain this standard. So that the double standard of sex freedom is perhaps as prevalent in Christian as in non-Christian countries. The inevitable result has been a vast amount of smug hypocrisy which is one of the most discreditable features of so-called "Christian" civilization.

Several writers have commented upon the failure of the Christian religion to maintain and enforce a single standard of sex morality, and upon the hypocrisy in matters of sex which has resulted therefrom. Lecky, himself a Christian devotee, admits rather grudgingly that the

[7] I have discussed this question in my "Poverty and Social Progress," New York, 1916, pp. 240–241.

double standard is about as prevalent under Christianity as under Paganism:—"At the present day, although the standard of morals is far higher than in Pagan Rome, it may be questioned whether the inequality of the censure which is bestowed upon the two sexes is not as great as in the days of Paganism, and that inequality is continually the cause of the most shameful and the most pitiable injustice. . . . The fundamental truth, that the same act can never be at once venial for a man to demand, and infamous for a woman to accord, though nobly enforced by the early Christians, has not passed into the popular sentiment of Christendom."[8]

Westermarck comments more impartially upon this failure of Christianity in the following words:—"It seems to me that with regard to sexual relations between unmarried men and women Christianity has done little more than establish a standard which, though accepted perhaps in theory, is hardly recognized by the feelings of the large majority of people—or at least of men—in Christian communities, and has introduced the vice of hypocrisy, which apparently was little known in sexual matters by pagan antiquity."[9]

Maxwell also criticizes Christianity severely

[8] W. E. H. Lecky, "History of European Morals," New York, 1877, Vol. II, pp. 346–347.

[9] E. Westermarck, *op. cit.*, Vol. II, p. 434.

for this failure and for its hypocrisy. He points out that the equalizing of the sexes is counteracting the Christian influence by giving woman the same freedom as man:—"Dans les pays catholiques, en France notamment, l'usage des plaisirs sexuels, quand il est modéré et n'entraine pas à des dérèglements, est toléré chez les jeunes hommes, la virginité chez eux prête au ridicule, et le langage populaire assimile le coquebin à l'innocent et au niais; la même tolérance existe chez les Italiens et les Espagnols; elle est moins marquée dans les pays Anglo-Saxons, mais là les péchés cachés n'excitent pas l'indignation du 'cant' anglais. Il est autrement de la liberté sexuelle des filles; admise dans une certaine mesure au milieu des classes ouvrières urbaines, qui préfèrent souvent l'union libre au mariage, elle repugne aux mondes bourgeois et aristocratique; il est visible pourtant que nos moeurs se modifient rapidement à l'heure actuelle! et que l'égalisation des sexes tend à leur reconnaître une liberté pareille; deja beaucoup d'artistes et de femmes intellectuelles pratiquent plus ou moins ouvertement l'indépendance masculine."[10]

[10] J. Maxwell, "Le concept social du crime," Paris, 1914, pp. 287–288.

Maxwell goes on to describe the double standard of sex freedom in non-Christian countries:—

"Les pays musulmans sont demeurés au contraire fideles aux idées anciennes du monde méditerranéen; l'inconduite des filles y est presque partout réprimée avec une rigueur extrême; aux exemples que j'ai déjà cités, on pourrait ajouter ceux de pres-

It is obvious that the Christian single standard of sex morality has failed because it is based upon an ascetic doctrine which is diametrically opposed to the facts of human nature. The hypocrisy which has resulted inevitably from this failure is one of the most baneful of Christian influences.

THE PREVENTION OF THE DOUBLE STANDARD

The above survey of the causes of the double standard of sex freedom proves conclusively that the double standard is not due to the perversity of men, as is preached by the popular oracles of morality, nor to the weakness of character of women, as is sometimes intimated; but to factors which mankind has not as yet clearly and generally recognized, nor attempted to control.

It is obvious that the fundamental factor in creating this double standard is the physiological dissimilarity of the sexes which makes sexual intercourse a much more serious matter for woman than for man, since it is very likely

que toutes les nations mahométanes; la Perse, l'Egypte, le Maroc sont des contrées ou l'inconduite des jeunes filles est fréquemment punie de mort.

"Les moeurs sont plus indulgents pour les hommes dans le monde musulman, qui ne diffère pas sensiblement du monde chrétien à ce point de vue, sauf qu'il montre moins d'hypocrisie.

"Enfin, la Chine, qui nous offre le spectacle de la plus vieille civilisation connue, admet formellement deux morales, l'une pour les hommes, l'autre pour les femmes; le Japon partage la même manière de voir."

to result in pregnancy. It is therefore very important that she should not take this risk unless conditions are suitable for her to bear children. The double standard is greatly accentuated by the prohibition of measures for controlling procreation and by the punishment of reproduction outside of the narrow limits prescribed by religion, conventional morality and the law.

But it is also evident that the double standard has been greatly strengthened by the proprietary attitude displayed by men towards women. This attitude is due in part to an innate sexual jealousy, but is largely artificial, since it has been encouraged by economic and other social factors.

Magic and religion also have given rise to discrimination against women in matters of sex freedom. Sex taboos have weighed more heavily upon women than upon men, because sex plays a more important part in the life of woman, and is supposed to be more unclean in woman.

The double standard is inevitable under present conditions. Indeed, it may even be said that under existing conditions it has its utility, because it deters many women from sharing the fate of their hapless sisters who, because they become known to have indulged in so-called illicit sexual intercourse or to have borne chil-

dren outside of wedlock, fall under the condemnation of the prevailing mores.

Furthermore, by permitting more or less sex freedom for men the double standard upholds for one half of mankind an ideal of freedom which will eventually become a part of the birthright of women as well. The single standard of morality consisting of sex repression and oppressive regulation for both sexes now being striven for by the professional moral reformers is a harmful and spurious standard which can never succeed in practise, and which will merely prolong the discrimination against women which is inherent in the existing double standard. The agitation in favor of such a single standard is at present the principal factor for increasing hypocrisy in matters of sex, of which hypocrisy there already is altogether too much.

But the double standard of sex freedom is at best a necessary evil, and should be obviated if its causes can be removed. If the risk of pregnancy could not be prevented or greatly lessened, the double standard would perhaps always be needed for the protection of women. In that case, the discrimination against woman involved in the double standard would have to be endured by her as one of the burdens caused by her child bearing function, just as man has to endure the dangers and terrible sufferings of

war, exploration, and other difficult tasks which fall to his lot.

It is now well known that there are effective and harmless contraceptive measures whose use reduces the risk of pregnancy to almost nothing. Women should be able to use these measures to prevent conception, except when conditions for child bearing are suitable. The legal, moral, and religious restrictions upon the use of contraceptive measures should be removed in order to obviate the double standard of sex freedom. I hardly need to add that these measures are also needed as birth control measures for the regulation of the increase of population.

It is perhaps a more difficult task to remove the proprietary attitude of men towards women. If the artificial reënforcement of male sexual jealousy can be abolished, it will be no stronger a force for the double standard than female sexual jealousy, which is doubtless as powerful an innate trait. The problem therefore is to fortify woman's status in society so that she cannot be appropriated by man.

The principal step towards this end is to secure her economic independence. Many women have become economically independent in recent years, and many more women will doubtless become independent in the near future. But there are at least three obstacles in the way of economic independence for many women. In the first place, child bearing and rearing inter-

fere with female labor. In the second place, marital unions frequently conflict with the mobility of female labor, since it is essential that a wife live with her husband. In the third place, male gallantry is a check upon woman's economic activities because it impels men to support women when they might be engaged in economic production.[11]

Whether or not these obstacles will always make a sufficient number of women economically dependent to maintain the double standard of sex freedom, it is impossible to foresee. Certain it is that so long as the property right in woman persists with any degree of strength, she will retain the notion that her sex is of peculiar value and must therefore be bartered for a consideration. This idea still governs many women in their dealings with the other sex, whether they be prostitutes or married women who in their marital unions have complacently sold themselves under the sanctions of religion, the law, and conventional morality.

If these obstacles prove to be sufficiently strong to maintain the economic dependence of woman and the double standard, it will be incumbent upon society through its organized agencies to counteract these obstacles. By means of judicious measures for subsidizing

[11] I have discussed the obstacles in the way of the economic independence of women in an article entitled *The Economic Basis of Feminism*, in *The Annals of the American Academy of Political and Social Science*, November, 1914, pp. 18–26.

women for performing the functions of child bearing and rearing the state may be able to obviate this factor which renders her dependent upon man. It may be possible to organize industry so that married women can be provided with employment wherever they may live with their husbands.

Male gallantry cannot be abolished by law. But if it is not encouraged by the educational system and by the prevailing mores, it will probably not be strong enough to maintain unaided the economic dependence of woman and the double standard of sex freedom.

The economic independence of women doubtless is the greatest force for a genuine single standard of sex morality for both sexes. The problem of the double standard is, therefore, not a problem of raising the morality of men or of lowering the morality of women, as is frequently alleged, but of placing the sexes upon an equality in their freedom to choose their mates and to procreate. Justice can be done to women only by placing them upon the same plane with men in their freedom of choice.

CHAPTER XIII

THE CAUSES OF PROSTITUTION

Prostitution signifies the sale of sexual gratification. It is a commercial and sometimes a professional activity.[1] But it is not the sale of the prostitute, as is frequently asserted. Sexual intercourse in prostitution may be and frequently is accompanied by intense repugnance and antagonism on the part of the prostitute, so that there is no giving of the prostitute's self. To assert that prostitution involves the sale of the prostitute is to identify the personality entirely with the physical aspect of sex. This notion reflects the tendency to over-emphasize the sexual nature of woman.

Prostitution has been limited almost entirely

[1] Flexner considers "prostitution to be characterized by three elements variously combined: barter, promiscuity, emotional indifference. The barter need not involve the passing of money, though money is its usual medium; gifts or pleasures may be the equivalent inducement. Nor need promiscuity be utterly choiceless; a woman is not the less a prostitute because she is more or less selective in her associations. Emotional indifference may be fairly inferred from barter and promiscuity. In this sense, any person is a prostitute who habitually or intermittently has sexual relations more or less promiscuously for money or other mercenary consideration." (A. Flexner, "Prostitution in Europe," New York, 1914, p. 11.)

to the female sex. The fundamental reason for woman's monopoly of this profession is that a female can gratify sexual passion in numerous males, whereas a male can gratify sexual passion in few females. This is due to well known physiological differences between the sexes. The result is that prostitution is a much more feasible commercial and professional activity for women than it is for men. Other reasons for the great preponderance of female over male prostitution will be mentioned in the course of this chapter.

PROSTITUTION AND CIVILIZATION

Prostitution is in the main a phenomenon of civilization. In the primitive and simpler societies it has been customary for the young to mate very early. Such promiscuity as has existed before or after mating has not usually been of the sort which could be characterized as prostitution, since it has not usually had the commercial and professional features mentioned above. In exceptional cases only could the sexual freedom of the unmarried, sexual hospitality to strangers, the exchange of wives, etc., be called prostitution.

Much of the promiscuity due to magical and religious notions cannot be regarded as prostitution. Among the forms of promiscuity due to magic and religion are saturnalia, practises connected with phallic worship, etc. Even sa-

cred prostitution, though of great historical interest, can hardly be regarded as having much practical importance for the evolution of prostitution.[2] Prostitution may have been stimulated a little in its early stages by the avarice of priests, but there can be little doubt that it would have attained as great proportions in the long run, even had there been no sacred prostitution, for it is due mainly to other factors.[3]

Prostitution is a feature of the complex life of civilization, especially in cities. A brief discussion of the causes of prostitution will indicate the significance of this statement. This discussion will deal, on the one hand, with the causes of the demand for prostitution, and, on the other hand, with the causes for the supply

2 Regnault suggests that commercial prostitution may be traced back to sacred prostitution in the following words:—

"Avec la civilisation, les idées commerciales se développèrent: on réduisit les prisonniers en esclavage pour tirer parti de leur travail, alors que le sauvage se bornait à les tuer et à les manger.

"La femme esclave avait une autre valeur, le propriétaire pouvait sur elle assouvir ses passions, elle fut un objet d'échange, elle devint également un objet de prêt: le proxénétisme etait inventé.

"Bien que le fait paraisse étrange, *les premiers qui imaginèrent de tirer profit de la fornication furent justement les prêtres.*" (F. Regnault, "L'évolution de la prostitution," Paris, 1906, p. 22.)

3 Historical accounts of prostitution are very numerous. A few which may be mentioned are the following:—P. Dufour, "Histoire de la prostitution," Paris, 1851–1853, 6 vols.; W. W. Sanger, "The History of Prostitution," New York, 1859; A. P. E. Rabutaux, "De la prostitution en Europe depuis l'antiquité jusqu'a la fin du XVIe siècle," Paris, 1869; A Semerau, "Die Kurtisanen der Renaissance," Berlin, 1914.

of prostitutes. While these causes are in large part the same, there are a few differences which must be noted.

THE DEMAND FOR PROSTITUTION

The first and fundamental cause of the demand for prostitution is biological in its character, namely, the powerful sexual impulse which must seek and obtain gratification. If it cannot secure this gratification in some form of marriage or in free and spontaneous promiscuity, it will secure it in commercialized promiscuity, namely, in prostitution.[4]

The second cause of the demand for prostitution is psychological in its character, namely, the play interest in sex. Those who have not the opportunity or who fail to satisfy this in-

[4] It is well to recall at this point that the Catholic Church has conducted a long experiment extending over many centuries in attempting to enforce chastity by means of the institution of sacerdotal celibacy. This attempt has failed throughout and has always been a prolific cause of corruption and immorality. Ample evidence of this failure down to the present time is furnished by Lea, the eminent historian of the Church. (H. C. Lea, "An Historical Sketch of Sacerdotal Celibacy in the Christian Church," 2nd edit., Boston, 1884, *passim.*)

"If the irregular though permanent connections which everywhere prevailed had been only the result of the prohibition of marriage, there might perhaps have been little practical evil flowing from it, except to the church itself and to its guilty members. When the desires of man, however, are once tempted to seek through unlawful means the relief denied to them by artificial rules, it is not easy to set bounds to the unbridled passions which, irritated by the fruitless effort at repression, are no longer restrained by a law which has been broken or a conscience which has lost its power." (*Op. cit.*, p. 341.)

terest as well as the sexual impulse in marriage or in some other form of sexual relationship must seek to satisfy it among prostitutes. This psychological factor is not recognized by many writers on this subject. And yet it doubtless plays an important part not only for the youthful tyro in matters of sex, but also for the disappointed and disillusioned spouse and for the satiated debauchee.

The third cause or group of causes of the demand for prostitution is economic and social in its character. In our complex civilization with its great variations in wealth it has become impossible for many men and women to mate early in life and for some of them to mate at all. Furthermore, class, caste, and other social barriers; religious prejudices; restrictive laws; and other obstacles have arisen in the way of the mating of many. Consequently, in contrast to the primitive societies of the past and the simpler communities of today in which practically every member of the group is mated soon after puberty, in civilized communities there is a large class of the sexually unmated which so long as it exists will perforce create a demand for prostitution.

The following table and diagram show that nearly one-half of the marriageable population in this country is unmarried:— [5]

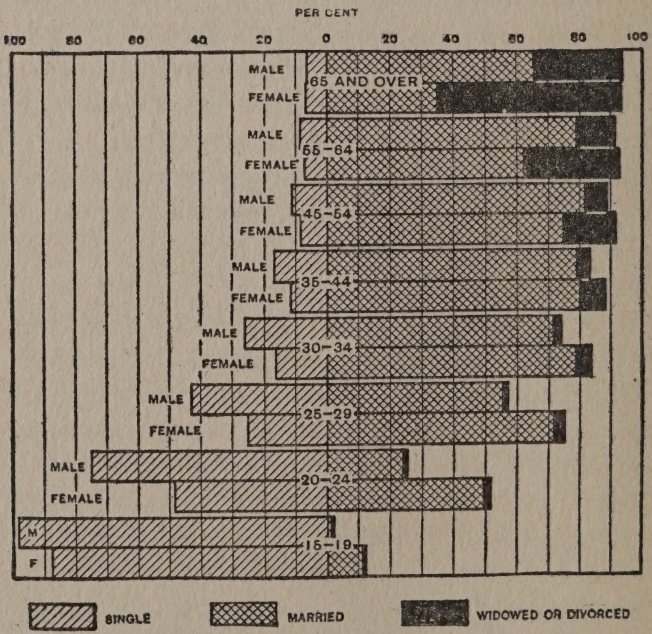
[5] "Abstract of the 13th Census of the U. S.," Washington, 1913, p. 146.

MARITAL CONDITION OF THE POPULATION OF THE UNITED STATES

Population 15 years of age and over: 1910

Marital condition	Male		Female	
	Number	Per cent of total	Number	Per cent of total
Total	32,425,805	100.0	30,047,325	100.0
Single	12,550,129	38.7	8,933,170	29.7
Married, widowed or divorced	19,720,152	60.8	21,045,983	70.0
Married	18,092,600	55.8	17,684,687	58.9
Widowed	1,471,390	4.5	3,176,228	10.6
Divorced	156,162	0.5	185,068	0.6
Marital condition not reported	155,524	0.5	68,172	0.2

MARITAL CONDITION OF THE POPULATION OF THE UNITED STATES BY AGE PERIODS: 1910



(From the *Statistical Atlas of the United States*, Census Bureau, Washington, 1914.)

THE SUPPLY OF PROSTITUTES

The biological factor is much less important as a cause for the supply of prostitutes. We need not enter here upon a discussion of the relative strength of the sexual impulse in man and in woman. All that it is necessary to know for our purpose is that it is a powerful force in both sexes. But the woman who must have sexual gratification is usually able to secure it within or outside of marriage without herself becoming a prostitute or seeking the services of a male prostitute. So that it is only in the exceptional cases of the nymphomaniacs, whose sexual cravings are excessively great, that the sexual impulse is the sole or the principal factor in driving the woman into prostitution, for these over-sexualized women can secure complete satisfaction only through the frequently repeated sexual intercourse of commercialized promiscuity.

However, the sexual impulse is one of the factors in leading many of the prostitutes, probably the great majority, into prostitution. On account of the social obloquy which almost invariably falls upon women who indulge in extra-matrimonial sex relations which become known, it is one of the factors for prostitution in many cases. So that the moralists who create this obloquy are largely responsible for the prostitution of these unfortunate women.

Psychological factors also play a part in creating a supply of prostitutes, though not in exactly the same way that they create a demand for prostitution. The play interest in sex is probably a much less potent factor for leading women into prostitution than it is for leading men to make use of prostitutes. But other psychological factors play an important part in the etiology of the prostitute. Among these are vanity, which requires for its satisfaction fine raiment and the adulation of men; the love of excitement and adventure, which frequently has little opportunity for gratification in the monotony of everyday life; etc.

The economic factors are perhaps the most important in creating a supply of prostitutes, though it is difficult to estimate the relative influence of the different factors for prostitution. I have already pointed out that, on account of the economic difficulties in the way of marriage, there is a large unmated group, which furnishes a considerable part of the material for prostitution. But the immediate economic factors are in the form of the pressure which arises from the smallness of the income of the father, husband, or other person upon whom the woman is dependent, or the smallness of her own wages.

Under such conditions the temptation may become great for the woman to supplement her meager earnings or to supplant them entirely

with the rewards of prostitution. It is doubtful if there are many cases where the woman has been actually forced into prostitution by economic factors in the sense that she would have starved if she had not become a prostitute. But the temptation which arises as a result of the economic pressure described above, along with the other factors which have been mentioned, has drawn many women into prostitution.

There are several other facts to be considered with regard to the etiology of prostitutes. It is to be expected that the above factors will act most effectively upon persons who are weak in mind and character. Weakness of character involves a low degree of resistance to the temptations named above. Feebleness of mind lessens the degree of foresight as to the ultimate consequences of a life of prostitution. It is, therefore, not surprising that among the groups of prostitutes which have been carefully examined there has been found almost invariably a relatively high percentage of feebleminded women.[6]

At the same time it must be remembered that

[6] It must, however, be borne in mind that the feebleminded prostitutes are the most likely to be segregated and put under restraint in such a fashion as to make possible a careful mental examination. It must also be remembered that many prostitutes have degenerated greatly as a result of dissipation. Some writers on this subject have failed to make proper allowance for these facts and have, consequently, made wildly exaggerated estimates of the extent of feeblemindedness among

many of the prostitutes are, to say the least, not below the average in character and intelligence, and have become prostitutes either on account of economic misfortune or because they possess traits which under other social conditions would have great value and would contribute to their success, but which under present conditions lead them into prostitution.[7] In this group are some if not many women who act with courage and independence in response to their natural impulses, but who then find that they cannot afford to do so in society as it is now organized.

THE PECUNIARY VALUE OF SEX IN WOMAN

The more or less prevalent notion that sex in woman has a pecuniary value and is therefore to be bartered has its influence upon prostitution. This influence is, of course, not restricted to prostitution, for it still encourages the sale

prostitutes. There is little reason to believe that more than a very small absolute percentage of the total number of prostitutes are feebleminded.

[7] For an extended discussion of the good traits of prostitutes, see A. J. B. Parent-Duchatelet, "De la prostitution dans la ville de Paris," Paris, 1857, Vol. I, Chap. 2.

Lecky characterizes certain types of prostitutes as follows:—

"The victims of seduction are often led aside quite as much by the ardour of their affections, and by the vivacity of their intelligence, as by any vicious propensities. Even in the lowest grades, the most dispassionate observers have detected remains of higher feelings, which, in a different moral atmosphere, and under different moral husbandry, would have undoubtedly been developed." (W. E. H. Lecky, "History of European Morals," New York, 1877, Vol. II, pp. 285–286.)

of women in marriage. The marriage price may not be paid in as obvious a manner as in simpler communities in which marriage by purchase prevailed. But many marriages in modern civilized communities still retain some of the character of a commercial transaction, though the attempt is usually made to conceal the commercial features by means of euphemistic subterfuges. In prostitution the barter is frank and open, and no attempt at concealment is usually made between the parties to the transaction. The sale of women attains its most aggravated form in the white slave traffic.

I have not the space to describe in detail the evolution of this notion of the pecuniary value of sex in women. Various factors have doubtless played a part in its development at one time or another, such as exogamy in primitive communities, the patriarchate, the economic value of female labor, the economic value of the offspring of the bartered woman, etc. There is good reason to believe that there will continue to be more or less bartering of women both within and outside of marriage so long as women are economically dependent.

If women become economically independent and there is freedom of mating for both sexes, the bartering of women or of sex in women will disappear almost entirely. Sex relations will then become matters of choice based upon personal inclinations undisturbed by any extran-

eous considerations. This condition will furnish the best possible basis for the development of the play function of sex both for men and for women.

It is alleged by many vice reformers and other persons that much prostitution is due to an artificial stimulus given to it by vice enterprisers who are exploiting prostitutes for their own benefit. There is doubtless a measure of truth in this assertion. But it is a gross exaggeration to assert that a considerable part of prostitution is due to such exploitation. The principal causes for the demand for prostitution and for the supply of prostitutes have been stated above, and the exploiter can aggravate these causes only to a comparatively slight extent.

Many foolish and injurious acts have been committed by vice reformers owing to mistaken emphasis upon the influence of the vice enterpriser. Exploitation of prostitution would disappear immediately if the fundamental causes of prostitution were removed, so that it is a wasteful and harmful expenditure of energy to concentrate attention upon suppressing the exploiter while ignoring these fundamental causes.

I have not the space to illustrate in detail, with the aid of statistical and other data, these causes of prostitution. But the above description, brief though it has been, is sufficient to indicate that prostitution is inevitable under pres-

ent conditions,[8] while there may always be an irreducible minimum of prostitution which cannot be removed under any conditions. Furthermore, this description suggests that there is a good deal of justification for prostitution under existing conditions.

[8] "In the presence of a majority still thinking quite differently it is absurd to preach total sexual abstinence to all unmarried young men, as certain moralists do (Tolstoi, for example). Though there are men who abstain without injury to their health, these moralists forget that the satisfaction of the sexual desires is one of the most important needs of the majority of men (the life of our day certainly increases these desires), and that present social conditions are the cause of men's considering woman their inferior. Dr. Blaschko, in his work 'Die Prostitution im XIX Jahrhundert,' rightly says: 'The sexual requirement in the case of mankind as of all other beings is an entirely natural one. To be sure, it is not so strong and compelling as the necessity of food and drink; it can be suppressed in the case of any one for a time, and with many permanently, without injury to the health. But what is true of this or that person does not hold for the mass of mankind, for whom sexual intercourse is doubtless a necessity.'" (W. Bonger, "Criminality and Economic Conditions," Boston, 1916, p. 323.)

CHAPTER XIV

THE UTILITY AND DISUTILITY OF PROSTITUTION

THE sexual organs must perform their functions in one way or another. The powerful instincts and feelings based upon their processes must find expression in some fashion. The most natural manner of attaining these ends is through sexual intercourse. However, the urgent physiological sexual processes may take place apart from sexual intercourse.

THE EVILS OF SEXUAL ABSTINENCE

The sexual glands can relieve themselves of their secretions from time to time, even though they do not receive the normal sexual stimulus. Hence it is possible that no direct physiological injury is caused by chastity. There is, however, ample evidence that total sexual abstinence is very injurious psychologically and culturally, and thus indirectly causes a vast amount of physiological injury as well.[1] The patho-

[1] At this point it is advisable to disprove and discredit a false statement which has been repeated by nearly every vice reformer and social hygiene agitator in this country. The statement is that the American Medical Association has passed a resolution to the effect that continence (chastity) is not injurious to health. The truth is as follows.

At the fifty-seventh annual session of the American Medical

logical results from sex repression have already been described in Chapter XI.

When the sexual instincts and feelings do not attain their normal expression in sex relations, they give rise in many cases to psychiatric conditions. This may happen whether the abstinence is by compulsion or by choice, but it is much more likely to happen when the abstinence is by compulsion. In the gravest cases some form of insanity arises. In the graver cases a neurotic condition results, as, for example, hysteria very frequently. In the milder

Association, held at Boston, June 5–8, 1906, the following resolution was offered to the Section on Hygiene and Sanitary Science by a zealous but injudicious vice reformer of the day (Dr. Prince A. Morrow):—

> Whereas, There exists among the laity a general impression that sexual intercourse is necessary to the health of men; and
>
> Whereas, It is claimed that this impression rests on the authority of the medical profession: now, therefore, be it
>
> *Resolved*, That in the opinion of the Section on Hygiene and Sanitary Science of the American Medical Association, continence is not injurious to health, and that this section reprobates the contrary doctrine as a menace to the physical and moral welfare of the individual and society.

This resolution was approved by this section for submission to the House of Delegates of the Association. This section is one of the smallest in the Association and the resolution was approved by about two dozen votes. The House of Delegates did not pass the resolution but referred it to the Committee on Improvement of the Treatment of Uterine Cancer! This was the last that was heard of it. A similar resolution which was presented from the Mississippi State Medical Association was referred to the same committee and suffered the same fate. (For all of the facts stated above, see, *Jour. of the Am. Medical Association*, Vol. XLVI, No. 24, June 16, 1906, p. 1880; Vol. XLVII, No. 1, July 7, 1906, p. 55; *The Medical Critic and Guide*, August, 1915, pp. 282–284.)

cases mental complexes arise from the repression of the sexual instincts and feelings which give the victim of the sex repression more or less mental discomfort.

In fact, it is doubtful if total sexual abstinence could exist without giving rise to at least a few of these complexes. The literature of abnormal psychology, psychiatry, sex psychology, and psychoanalysis contains numerous data concerning the psychiatric phenomena resulting from sex repression. Furthermore, they are almost universal facts of human experience, for nearly every one has tested at some time or other the effects of sexual abstinence.

The sex relation has great cultural value. This fact has already been amply demonstrated in the description of the play function of sex in Chapter IX. Sex experience is an essential and important element in the development of personality. There can be no well rounded personality without this experience. Inasmuch as the development of personality is the highest aim of civilization, the Christian ideal of virginity must be regarded as a barbarous and not as a civilized ideal. It should be replaced by the civilized ideal of the sexually mature man or woman who develops to the full the play function of sex, and who is permitted by circumstances to perform the reproductive function as well.

THE LIMITED UTILITY OF PROSTITUTION

The significance of the utility of and the need for the sex relation in the life of mankind with respect to prostitution is obvious. So long as many individuals are unmated prostitution furnishes a means of sexual gratification for some of these persons, though it is a very unsatisfactory means in many ways. Consequently, prostitution has a limited utility under the existing disorganized state of sex relations.

In a few cases prostitution prevents rape on the part of individuals to whom it affords relief from their otherwise uncontrollable sexual passion. It prevents some of the physiological and psychological injury arising from the obstruction of the sexual impulse. It affords at least a small scope for the development of the play interest in sex for many individuals. It furnishes a means of sexual relief always ready at hand without the emotional stress frequently involved in love and marriage. Furthermore, as has been pointed out by Ellis, it adds something to the variety and gayety of life which has its value for civilization.[2]

2 "There is, however, another argument in support of prostitution which scarcely receives the emphasis it deserves. I refer to its influence in adding an element, in some form or another necessary, of gayety and variety to the ordered complexity of modern life, a relief from the monotony of its mechanical routine, a distraction from its dull and respectable monotony. This is distinct from the more specific function of prostitution as an outlet for superfluous sexual energy, and

It has also been asserted by some writers that prostitution furnishes valuable protection to monogamous marriage and to the family. The question of the influence of prostitution upon marriage and the family constitutes a very complicated problem which I shall discuss presently, after the evils arising out of prostitution have been described.

THE HARDSHIPS OF PROSTITUTES

Prostitution involves hardships for many of the prostitutes. Some of them, owing to their beauty or adroitness, earn more and live more

may even affect those who have little or no commerce with prostitutes. This element may be said to constitute the civilizational value of prostitution." (Havelock Ellis, "Sex in Relation to Society," Philadelphia, 1911, pp. 287–288.)

A woman writer has expressed a similar idea in the following words:—

"No woman can have failed to feel astonishment at the attractive force the prostitute may, and often does, exercise on cultured men of really fine character. There is some deeper cause here than mere sexual necessity. But if we accept, as we must, the existence of these imperatively driving, though usually restrained impulses, it will be readily seen that prostitution provides a channel in which this surplus of wild energy may be expended. It lightens the burden of the customary restraints. There are many men, I believe, who find it a relief just to talk with a prostitute—a woman with whom they have no need to be on guard. The prostitute fulfils that need that may arise in even the most civilized man for something primitive and strong: a need, as has been said by a male writer, better than I can express it, 'for a woman in herself, not woman with the thousand and one tricks and whimsies of wives, mothers and daughters.'" (Catherine Gasquoine Hartley Gallichan, "The Truth about Woman," London, 1913, pp. 372–373.)

comfortably than most of their so-called virtuous sisters. But the earnings of the great majority of prostitutes are comparatively small. Furthermore, their earning capacity does not last very long on the average, because disease, dissipation, premature old age, etc., usually destroy the usefulness of a prostitute after a few years of professional activity.

A very small percentage of the prostitutes have been forced into prostitution by the white slave traders. The great majority of them have entered it by choice, or have drifted into it through force of circumstances. All of them suffer from the weight of moral and social condemnation and disapproval. Many of them are penniless when they reach the end of their period of usefulness as prostitutes, and have been incapacitated by their previous life for other kinds of activity. However, some of them are able to earn a comfortable living as procuresses and as employers of prostitutes, and a certain number are provided for in marriage.

Furthermore, the hardships of prostitutes are greatly accentuated at present by unwise attempts to suppress and stamp out prostitution entirely. Legislation which makes prostitution criminal and in other ways attempts to repress the prostitutes is sure to have this effect. The harassing and hounding which they receive from the police and the courts drive them into

the arms of the pimps, procurers, and other exploiters of prostitutes who stand ready to fleece them in every possible way.

This hounding also forces them into association with criminals and encourages them to become the consorts and accomplices of thieves, murderers, etc. From this stage it is an easy step for them to become thieves, receivers of stolen goods, etc., themselves. Furthermore, these repressive measures increase greatly the degradation of the prostitute and drive her into still lower depths of dissipation and vice.

The regulation of prostitution, even when it is not governed by the object of suppressing prostitution immediately or ever, is also in danger of increasing the hardships of the prostitutes. But this danger can be avoided in large part if not entirely if the regulating is done wisely. Every regulation which is enforced should be adopted only after a broad survey of the interests both of society at large and of the prostitutes. Thus only can justice be done to the prostitutes.

PROSTITUTION AND THE PLAY FUNCTION

Prostitution encourages a low grade of play interest in sex. In fact, so far as the prostitutes themselves are concerned, the constant repetition of sexual intercourse and the indiscriminate promiscuity involved tend to stamp out the play interest entirely, so that the sex-

ually hardened prostitute may have even less of it than the sexually dessicated old spinster.

This is one of the most deplorable evils of prostitution. It destroys to a large extent the play function of sex for the prostitutes, and tends to develop sexual frigidity in them. It may indeed be true, as is believed by some of the students of prostitution, that many of them are sexually frigid before they become prostitutes, and that their sexual frigidity has encouraged them to enter prostitution because their lack of passion leads them to look upon sexual intercourse as an inconsequential matter not to be esteemed highly. But whether their frigidity exists before they become prostitutes or develops as a result of prostitution, their play interest in sex is rarely ever stimulated by their commercialized promiscuity.

So far as their customers are concerned, also, prostitution tends to develop a low grade of play interest in sex. This is not necessarily because it is promiscuous, for a high degree of play interest may exist even in promiscuity so long as it is free and spontaneous. But in commercialized promiscuity there is little or no response from the woman. Furthermore, the sexual intercourse is not usually accompanied with and followed by a period of association long enough to develop a close acquaintance with personal traits, though the acquaintance

may develop rapidly while it lasts on account of the absence of conventional restraints.

The value of prostitution for the customer from the point of view of the play function of sex depends, therefore, upon whether or not it is the best he can do under the circumstances. For many men no other sex relation is available, so that the commercialized form may be better than none at all. But if a man is able to secure an uncommercialized relation, it is almost invariably far superior to the commercialized form.

PROSTITUTION AND DISEASE

The most harmful result from prostitution at present doubtless is its effect in spreading the venereal diseases, namely, gonorrhoea and syphilis. This, of course, is due to the promiscuity involved and has nothing to do with the moral aspect of prostitution. Furthermore, this effect is greatly accentuated in the commercialized promiscuity of prostitution for the prostitutes themselves. Their promiscuity is highly concentrated in a comparatively small group of women who become the depositories, so to speak, of the germs of these diseases and from whom these germs are communicated to their numerous male customers.[3]

[3] A syphilologist states the effect of prostitution in spreading syphilis in the following words:—

"The great source of the propagation of syphilis is prostitution, either open or clandestine. The women who accept pro-

These men in turn pass these germs on to many women who are not prostitutes and thus the diseases become widely disseminated in society at large. Uncommercialized promiscuity does not have as dire results because it is more widely diffused in society at large and is not so highly concentrated among the women who indulge in it. These women probably exercize more care, so that they do not become the depositories of these germs to the same extent as prostitutes.

It is unnecessary to dwell upon the vast amount of suffering and social injury caused by the venereal diseases. It is obvious that the problem of their prevention is a sanitary and prophylactic problem, and not a moral problem as is frequently asserted. In the following chapter will be described the treatment and prevention of these diseases in so far as these sanitary and prophylactic measures involve the question of the regulation and control of prostitution.

PROSTITUTION AND MARRIAGE

It is also alleged that prostitution tends to check mating in marriage. For this as well as

miscuous intercourse do not go far before they are exposed to syphilis; and it follows, of course, that the prevalence of syphilis among promiscuous prostitutes is enormous. As a matter of fact, it is practically universal." (W. A. Pusey, "Syphilis as a Modern Problem," Chicago, 1915, p. 112.)

It should be stated, however, that some venereal specialists

for other reasons, it is said to endanger monogamy and the family. It is also said to promote the double standard of sex morality. But, as has been noted above, prostitution is, on the contrary, alleged by some writers to be a valuable protection for monogamous marriage and the family. It is impossible to solve this problem without a preliminary discussion of the evolutionary relation between prostitution and marriage.

It is suggested by some writers that prostitution and marriage, or at least monogamic marriage, have a common origin or that prostitution resulted from monogamic marriage.[4] In a very general sense it is true that prostitution and marriage have a common origin, inasmuch as both of them are due to the sexual impulse. But, speaking more strictly, they cannot be said to have a common origin.

Marriage, by which I mean mating of considerable duration, has doubtless existed for a long time. It is found among some of the animal species other than man, and is found among the

deny that syphilis and other venereal diseases are universal among promiscuous prostitutes.

[4] For example, Mrs. Gallichan suggests that prostitution may have resulted from monogamic marriage:—

"Every attempt hitherto to grapple with prostitution has been a failure. Women have to remember that it has existed as an institution in nearly all historic times and among nearly all races of men. It is as old as monogamic marriage, and may be the result of that form of sexual relationship, and not, as some have held, a survival of primitive sexual licence." ("The Truth About Woman," p. 362.)

most primitive men. Prostitution, on the contrary, does not exist among animals, and seems to be a comparatively late development in human social evolution, so far as we can judge from anthropological and historical evidence. So that prostitution must be due to comparatively recent social conditions and factors which did not play a part in giving rise to marriage.

Monogamic marriage also doubtless is very ancient, for it is found among some animals and among primitive men. So that monogamy in general can scarcely be regarded as the origin of prostitution, for if that were the case prostitution would have originated much earlier than it did. It is possible, however, that prostitution originated from and is encouraged by a certain form or certain forms of monogamy. We must, therefore, consider what forms of monogamy are accompanied by prostitution in order to determine whether or not there is a causal relation.

I have already noted the fact that the pecuniary valuation of sex in woman influences not only prostitution but also modern marriage.[5] This fact suggests a close relation between the

[5] Mrs. Gallichan characterizes marriage as follows:—"Marriage is itself in many cases a legalised form of prostitution. From the standpoint of morals, the woman who sells herself in marriage is on the same level as the one who sells herself for a night, the only difference is in the price paid and the duration of the contract. Nay, it is probably fair to say that at the lowest such sale-marriage results in the greater evil, for the prostitute does not bear children. If she has a child it

two and indicates that to this extent at least they have a common origin. At the same time it must not be forgotten that other factors have played a part in the origin of both of these institutions, as, for example, the influence of religion in giving rise to prostitution.

Monogamy as a sacred dogma makes the dissolution of marriage by divorce difficult, and thus creates a potent force for prostitution. Many of the married men who indulge in prostitution would not do so if they were happily married, and free divorce would lessen the number of unsuccessful matings and would increase the number of happy unions. To the religious obstacles must be added the serious economic obstacles already mentioned in the way of spontaneous early matings which would furnish a satisfactory sex life for all.

Thus we see that, while prostitution is not a necessary accompaniment of marriage and of monogamy, it is a result from, or, to say the least, an inevitable concomitant of the existing form of marriage. This fact makes the discussion of the influence of prostitution upon marriage of somewhat academic importance. However, it may be worth while to discuss briefly whether, as is alleged by some persons prostitution is a protection to monogamy and

has, as a rule, been born first; such is our morality that motherhood often drives her on to the streets." ("The Truth About Woman," p. 342.)

the family, or, as is alleged by others, prostitution is dangerous and harmful to those institutions.

It is asserted by the upholders of the first theory that prostitution prevents a certain amount of seduction and rape which would take place if an outlet for male passions was not furnished by prostitutes. Thus the daughters, wives, and prospective wives of the monogamously married males are saved to that extent from the menace of violation, and monogamy and the family are protected.[6]

[6] This appears to be the meaning of Lecky in the following melodramatic passage, which has often been quoted:—

"The family is the center and the archetype of the State, and the happiness and goodness of society are always in a very great degree dependent upon the purity of domestic life. The essentially exclusive nature of marital affection, and the natural desire of every man to be certain of the paternity of the child he supports, render the incursions of irregular passions within the domestic circle a cause of extreme suffering. Yet it would appear as if the excessive force of these passions would render such incursions both frequent and inevitable.

"Under these circumstances, there has arisen in society a figure which is certainly the most mournful, and in some respects the most awful, upon which the eye of the moralist can dwell. That unhappy being whose very name is a shame to speak; who counterfeits with a cold heart the transports of affection, and submits herself as the passive instrument of lust; who is scorned and insulted as the vilest of her sex, and doomed, for the most part, to disease and abject wretchedness and an early death, appears in every age as the perpetual symbol of the degradation and the sinfulness of man. Herself the supreme type of vice, she is ultimately the most efficient guardian of virtue. But for her, the unchallenged purity of countless happy homes would be polluted, and not a few who, in the pride of their untempted chastity, think of her with an indignant shudder, would have known the agony of remorse

It is sometimes added in support of this theory that prostitution also affords an outlet for the passions of married men when it is desirable that their wives shall not be compelled to experience sexual intercourse, as, for example, towards the end of pregnancy. According to this theory, therefore, in the economy of the sexual division of labor the prostitutes constitute a relatively small group of women who possess the specialized professional activity of drafting off male sexual energy at times when

and despair. On that one degraded and ignoble form are concentrated the passions that might have filled the world with shame. She remains, while creeds and civilisations rise and fall, the eternal priestess of humanity, blasted for the sins of the people." (W. E. H. Lecky, "History of European Morals," New York, 1877, Vol. II, pp. 282–283.)

Mrs. Gallichan expresses a similar idea, but with a broader and more liberal outlook than Lecky she recognizes that the present utility of prostitution is largely due to the evils of the existing form of marriage:—

"Our marriage system is buttressed with prostitution, which thus makes our moral attitude one of intolerable deception, and our efforts at reform not only ineffective, but absurd. Without the assistance of the prostitution of one class of women and the enforced celibacy of another class our marriage in its present form could not stand. It is no use shirking it; if marriage cannot be made more moral—and by this I mean more able to meet the sex needs of all men and all women—then we must accept prostitution. No sentimentalism can save us; we must give our consent to this sacrifice of women as necessary to the welfare and stability of society." ("The Truth About Woman," p. 341.)

"The time is not far distant when the mothers of the community, the sheltered wives of respectable homes, must come to understand that their own position of moral safety is maintained at the expense of a traffic whose very name they will not mention." (*Op. cit.*, p. 361.)

this energy endangers monogamously married females.

It is obviously impossible to measure the extent to which prostitution serves as a preventive of rape and seduction. To the extent that it performs this service it may serve as a protection of monogamy and the family. But it is evident that it performs this service for women in general, and not merely, as seems to be implied in the grandiloquent phrases of Lecky, for the sacred ark of the monogamous family of today. Furthermore, the dangers of rape and seduction are due in large part to the existing type of marriage, so that prostitution is alleged to protect marriage from the dangers which marriage itself creates in the main.

On the other hand, it is alleged that prostitution does injury to monogamy by acting as a check upon mating. It is obviously impossible to ascertain the number of instances in which men are turned away from mating by prostitution. But it is highly probable that the number is very small, for there are few men who would not prefer a satisfactory sexual mating to the commercialized promiscuity of prostitution.

In any case, this argument is a good example of putting the cart before the horse. Prostitution is due in large part to the failure of mar-

riage, so that this failure could not be due to any great extent to prostitution. Furthermore, it must be remembered that prostitution leads to a certain amount of mating, either within or outside of marriage.[7]

It is also alleged that prostitution gives rise to and perpetuates the double standard of sex morality, and thus menaces monogamy and the family. I have described the causes of the double standard in an earlier chapter. In the light of that discussion this argument is manifestly absurd. It is obvious that prostitution and the double standard are due in the main to common causes, so that the only way to abolish either or both of these evils is to remove these common causes.

It is alleged, in the third place, that prostitution menaces monogamy and the family by disseminating venereal diseases. But even though this is true, prostitution menaces in this respect not merely the sacred ark of the monogamous family, but all women and all men as well. So that this objection to prostitution should be used, not in behalf of monogamy in particular, but in behalf of society as a whole. However valuable and permanent the monogamous family may be, it is not justifiable to subordinate everything else to it.

Inasmuch as prostitution is a result of, or, to

[7] See, for example, W. Acton, "Prostitution," London, 1870, pp. 39–49.

say the least, an inevitable correlative or concomitant of, the existing type of marriage, it is a waste of time to discuss whether or not the effect of prostitution upon marriage and the family is beneficial or harmful. The question of practical importance is the reform of marriage which will obviate prostitution entirely or in large part.

Such a reform will come about only when marriage affords an opportunity for a normal sex life for practically every adult member of society. Unless marriage can be reformed in this fashion, prostitution will persist as a remedy for the defects of marriage. In that case it will perforce become respectable, as has been pointed out in eloquent language by the well-known sociologist, Gabriel Tarde.[8]

[8] "Pourquoi la prostitution, qui comble tant bien que mal une lacune de l'institution du mariage, si défectueuse à certains égards, est-elle déshonorante quoique socialement nécessaire (sous une forme réglementée ou non)? De deux choses l'une: ou bien la prostitution, si elle continue à être un déshonneur en dépit de son utilité, disparaîtra fatalement et sera remplacée par quelque autre institution qui remédiera mieux aux défectuosités du mariage monogame; ou bien elle subsistera, mais en devenant respectable, c'est-à-dire en se faisant respecter bon gré mal gré, ce qui pourra se produire peu à peu, quand elle se sera syndiquée, organisée en corporation puissante, où l'on n'entrera qu'en offrant certaines garanties, où seront cultivées certaines vertus professionelles qui élèveront le niveau moral des sociétaires." (G. Tarde, *La morale sexuelle*, in the *Archives d'anthropologie criminelle*, Vol. XXII, January, 1907, pp. 39–40.)

Isaacson proposes a scheme which, he thinks, will, among other things, prevent prostitution by obviating the need for it. (E. Isaacson, "The Malthusian Limit," London, 1912.) He

PROSTITUTION UNSATISFACTORY AS A SOLUTION OF THE SEX PROBLEM

And yet it is doubtful if prostitution can ever be permanently satisfactory as a solution of the sex problem. While the *hetairæ* in ancient Greece and elsewhere played an important and valuable rôle, and while prostitution is inevitable in our existing civilization, commercialized sex relations can never adequately meet the requirements of both the play and the reproductive functions, and will always conflict in a measure with the feelings and instincts connected with those functions of sex.

proposes to organize sex relations by means of a two-class system. The first will be a relatively small "fecund" class made up of the men and women who are physically best fitted to procreate and whose chief function will be to reproduce the race. The second will be a relatively large "surplus" class made up of the remainder of society who will refrain from procreating but will be free to mate as they choose, the women being economically independent and upon the same status as the men of the same class. Thus a sex life will be furnished for practically every person in society and the sexual need for prostitution will be obviated. (Compare the three classes of population discussed by Georg Hansen, "Die drei Bevölkerungsstufen," Munich, 1889.)

Isaacson's scheme will, in my opinion, never be feasible because the desire for parenthood is too widespread to make it possible or desirable to limit the right to have children to a small class. But he is entirely justified in emphasizing in this connection the importance of the pressure of population, and in asserting that it is the fear of reproduction under conditions which make it undesirable which determines to a large extent the existing standard of sex morality. (For a discussion of the problems of population see my "Poverty and Social Progress," New York, 1916, especially Chaps. 12 and 13.)

Deplorable indeed is the present situation in the organization of the sex relations of mankind. On the one hand is the vast mass of men and women who are not sexually mated or who are unsatisfactorily mated, and who, therefore, are unable to live a normal sex life. This is the greatest evil in the present situation, for it does injury to the largest number of persons. And yet it is usually overlooked in the discussion of this subject. On the other hand is the relatively small group of women who are, in a sense, sacrificed to meet these sexual needs, and whose sacrifice constitutes the lesser of the two evils in the present situation. Could there be two better reasons for re-organizing marriage and the other institutions connected with sex?

At the same time, it is erroneous and misleading to call prostitution "the social evil," as is the custom of conventional vice reformers. Prostitution is primarily one of the sexual evils. It is no more of a social evil than many other evils in society, and is not as great a social evil as some of them, such as poverty, crime, and intemperance. The emphasis placed upon prostitution as *the* social evil by vice crusaders very frequently is in reality an attempt to draw a red herring across the pathway of the reform and abolition of some of the greater of the social evils.

CHAPTER XV

THE FAILURE TO SUPPRESS PROSTITUTION

The sexual impulse is one of the most useful factors in the life of mankind. So that no manifestation of this impulse *per se* can be regarded as unhealthy, abnormal, or vicious. It is only when the expression of the sexual impulse is misguided, is carried to an excess, or is misused in some way, that it can be regarded as vicious.

The two fundamental evils arising out of prostitution have been described in the preceding chapter. In the first place, prostitution violates the play function of sex. In the second place, it disseminates venereal diseases. Other evils are alleged on religious and pseudo-moral grounds which have no basis in fact. Of the two genuine evils of prostitution, the second can be obviated in large part if not entirely by means of prophylactic measures. The first will persist as an inevitable accompaniment of prostitution.

The dissemination of disease is doubtless the principal evil arising out of prostitution at present. But the violation of the play function is its permanent evil, and, therefore, is the most serious one in the long run. The pecuniary valuation of sex inherent in prostitution inevit-

ably diminishes somewhat the spontaneity of the sex relation which is essential for the highest development of the play function.

USELESS ATTEMPTS TO ABOLISH PROSTITUTION

On account of these evils of prostitution it would be desirable if feasible to abolish it entirely. This has been attempted many times in the past. Christianity, owing to its hostility to sex, has encouraged many of these attempts. Some of them have been due to the desire to prevent disease, to safeguard marriage and the family, etc.

These attempts to abolish prostitution have failed.[1] This is proved, in the first place, by

[1] "From the time when Christianity gained full political power, prostitution has again and again been prohibited, under the severest penalties, but always in vain. The mightiest emperors—Theodosius, Valentinian, Justinian, Karl the Great, St. Louis, Frederick Barbarossa—all had occasion to discover that might was here in vain, that they could not always obey their own moral ordinances, still less coerce their subjects into doing so, and that even so far as, on the surface, they were successful they produced results more pernicious than the evils they sought to suppress. The best known and one of the most vigorous of these attempts was that of the Empress Maria Theresa in Vienna; but all the cruelty and injustice of that energetic effort, and all the stringent, ridiculous, and brutal regulations it involved—its prohibition of short dresses, its inspection of billiard-rooms, its handcuffing of waitresses, its whippings and its tortures—proved useless and worse than useless, and were soon quietly dropped. No more fortunate were more recent municipal attempts in England and America (Portsmouth, Pittsburgh, New York, etc.) to suppress prostitution offhand; for the most part they collapsed even in a few days." (H. Ellis, "The Task of Social Hygiene," London, 1912, pp. 285–286.)

the fact that prostitution is widespread today. Indeed, owing mainly to the rapid development of cities in modern times, it may be more widespread than ever before. In urban communities there is usually a higher percentage of single persons than in rural communities,[2] and this condition encourages prostitution.

But in any case prostitution is inevitable so long as the sexual impulse does not have adequate opportunity for expression in other ways. So that attempts at suppressing it absolutely must necessarily be hopeless of success, and are likely to cause much injury. The wise measures against prostitution, therefore, are those that are directed towards providing greater opportunities for the better types of sexual expression. By these measures prostitution can be greatly lessened, though it is doubtful if it can ever be abolished entirely.

SUPPRESSION TRIED IN THE UNITED STATES

Unfortunately, ill-advised attempts to abolish prostitution are now being made in this country.

[2] According to the Federal Census there were in 1910 in the rural communities 37.5% single males 15 years of age and over, and in the urban communities 40.0% single males of the same age period. In the rural communities there were 26.9% single females 15 years of age and over, and in the urban communities 32.8% single females of the same age period. Of single males of this age period there were 38.1% in cities of 2,500 to 25,000, 39.5% in cities of 25,000 to 100,000, and 41.5% in cities of 100,000 and over. Of single females of this age period these were 30.8% in cities of 2,500 to 25,000, 32.3% in cities of 25,000 to 100,000, and 34.3% in cities of 100,000 and

In fact, it may almost be said that a moral hysteria with respect to this subject has passed over this country. It has manifested itself in the investigations of vice commissions, in vice crusades in many cities, in the appointment of morals commissions, in the activities of so-called "social hygiene" associations, in the enactment of injunction and abatement laws, in raising the age of consent, in the white slave traffic laws, etc.

The spirit of these attempts is well illustrated in the reports of the vice commissions. The best known of these is the Chicago Vice Commission which made its investigation in 1910 and 1911. Its motto is as follows:—"Constant and persistent repression of prostitution the immediate method: absolute annihilation the ultimate ideal."[3] It advocates various restrictive measures which cannot possibly reach the roots of prostitution. Its limited outlook is revealed when it says that "religion and education alone can correct the greatest curse which today rests upon mankind" (p. 27). Its cri-

over. ("13th Census of the U. S., 1910," Vol. I, Washington, 1913, p. 596.)

[3] "The Social Evil in Chicago," Chicago, 1911, p. 25.

For a searching and incisive criticism of this report, see W. Lippmann, "A Preface to Politics," New York, 1913, Chapters V and VI.

A more intelligent presentation than the Chicago report of the point of view of the vice reformer is to be found in the report of the Committee of Fifteen in New York City, "The Social Evil," New York, 1902.

teria for the measures to be adopted are that they must be, first, moral; second, reasonable and practical; third, constitutional; and fourth, square with the public conscience. We cannot help but wonder what would happen to a measure which was moral according to the enlightened views of the Commission, but contrary to the laws of nature.

Enough has been said to show the egregious folly and futility of this report. Nowhere in it is there a frank and scientific discussion of the sex problems which are fundamental in the study of prostitution, nor of the great economic and political forces which condition it. While some of its specific recommendations are good so far as they go, none of them can bring about fundamental changes, and some of them are positively harmful. But the principal evil from this report is that it confuses and obfuscates the whole question of prostitution and distracts attention from the important points. Thus is a red herring drawn across the pathway of effective and feasible measures.

Unfortunately, the recommendations of the Chicago Commission have been copied almost literally in the reports of most if not all of the many other vice commissions which have been appointed in other cities.[4] As a result of these reports permanent morals commissions have

[4] Among these cities are Atlanta, Cleveland, Denver, Kansas City (Mo.), Minneapolis, Philadelphia, Pittsburgh, St. Louis,

been created in a number of cities,[5] and various kinds of repressive legislation have been enacted, such as injunction and abatement laws to prevent the use of houses for the purpose of prostitution.[6]

The harmful results from the stupid policy of attempting complete suppression of prostitution under present conditions have been illustrated over and over again in this country. Every time that a segregated district has been closed by the police, or any other sort of drastic suppression has been attempted, the prostitutes have been scattered among the tenement houses and in the residential districts in general, and have hidden themselves in massage parlors, manicure parlors, and in many other kinds of resorts. Thus clandestine prostitution has been encouraged, and the harmful influence of prostitution has been made more insidious if not more widespread. It is obviously impossible to measure the extent of clandestine

etc. State commissions have been appointed in Illinois and Missouri.

In this connection it may be worth while to record the following conversation with a prominent member of the vice commission of a large city. I asked him why his commission had copied almost verbatim the fatuous recommendations of the Chicago Commission. Looking rather sheepish, he replied: —"Ah well, you see, the public expects it of us."

[5] Chicago, Denver, Minneapolis, Pittsburgh, Scranton, etc.

[6] Red Light Injunction laws are in effect in the District of Columbia, Kansas, Massachusetts, Minnesota, Nebraska, New York, North Dakota, Oregon, Pennsylvania, South Dakota, Tennessee, Utah, Washington, Wisconsin, etc. (See C. Zueblin, "American Municipal Progress," New York, 1916, p. 409.)

prostitution. But owing to its insidious nature it is doubtless much more harmful than open prostitution, and much more difficult to regulate.

THE INJUNCTION AND ABATEMENT LAWS

The injunction and abatement laws which have been enacted in several states illustrate the extreme to which the vice reformers go in their attempts to stamp out prostitution, and the gross injustice which results from extreme measures. Such a law usually ordains that a house cannot be used for any purpose whatsoever for one year after it has been proved that it has been used for purposes of prostitution.

Now it is obvious that if prostitution is inevitable at present, and that therefore it is better to tolerate it than to try to suppress it entirely, it is also inevitable that houses should be used for this purpose. It is, therefore, ridiculous and inconsistent, as well as grossly unjust, to penalize severely the owners of these houses for permitting something that is inevitable. The most that can be fairly required of these owners is that they shall not tolerate any criminal practises, such as rape or white slavery, in connection with prostitution in their houses.

THE LAWS AGAINST PROCURATION

The same point may be illustrated with respect to the laws against procuration. It goes

without saying that any man or woman who makes a girl or woman a prostitute by force or by fraud and deception should be severely punished. So that the procurers who use these criminal methods should be relentlessly pursued and prosecuted, for few crimes could be worse than forcing a woman involuntarily into prostitution. To this extent the laws and the international agreements against the white slave traffic are necessary and desirable.

But, on the other hand, so long as prostitution is inevitable, it is inevitable that there should be madames of houses of prostitution, go-betweens, and other promoters and exploiters of prostitution. As a profession for pecuniary profit, prostitution must have its commercial aspect. So that it is absurd and inconsistent to penalize those who traffic in prostitution so long as they indulge in no criminal practises. It is a misuse of words to call it the white slave traffic, unless force and deception are used, because no prostitute is a white slave unless she has been forced into and is held in this profession by coercion.

And yet in this country the attempt has frequently been made to prohibit all forms of trafficking in vice, the honest and non-criminal as well as the dishonest and criminal.[7] This is

[7] For example, the New York law reads in part as follows: —"Whosoever shall keep or maintain a house of ill-fame or assignation of any description or a place for the encouragement

manifestly impossible since prostitution is in itself a commercial activity and as such requires its enterprizers, organizers, promoters, and exploiters like every other form of commercial activity.

The worst example of unwise and unjustifiable legislation against procuration is the infamous Federal White Slave Traffic Law, usually called the "Mann Act," which has already been described in Chapter X. This vicious law penalizes not only persons trafficking in prostitution but many others who have nothing whatsoever to do with this traffic, but who, in their private lives, have committed acts which are alleged to be immoral.

As was to be expected when it was enacted, this law has given rise to an enormous amount of blackmail, and has caused injury, suffering, and gross injustice to many innocent persons. Its enactment was due largely to sensational and grossly exaggerated reports about the white slave traffic which circulated in the popular press and literature of the day, and which were well calculated to lead to hysterical and ill-advised legislation.[8]

or practice by persons of lewdness, fornication, unlawful sexual intercourse or for any other indecent or disorderly act or obscene purpose therein or any place of public resort at which the decency, peace or comfort of a neighborhood is disturbed shall be guilty of a misdemeanor." (*New York State Penal Code*, 1915, Section 1146.)

[8] See the following articles describing the hysteria and exaggeration involved in the agitation against the white slave

REGULATION INSTEAD OF SUPPRESSION

The injunction and abatement laws and the laws against procuration indicate that many of the laws against prostitution are neither scientific nor practical, because they cannot possibly attain the object towards which they are directed, namely, the abolition of prostitution. This social evil can be prevented only to the extent that the normal sex life is possible for mankind. In spite of this fact, the numerous religionists, professional moralists, sentimentalists, philanthropists, reformers, etc., who are trying to suppress prostitution, not only are not trying to provide the normal sexual life for all, but many of them are actually trying to deprive as many persons as possible of this life.[9] The folly and fatuousness of their efforts is therefore apparent.

traffic:—Teresa Billington-Greig, *The Truth About White Slavery*, in *The English Review*, June, 1913, pp. 428–46; B. Whitlock, *The White Slave*, in *The Forum*, Feb., 1914, pp. 193–216.

Mrs. Billington-Greig comments upon the furor over the white slave traffic and alleged white slavery in the following words:—"The Fathers of the old Church made a mess of the world by teaching the Adam story and classing women as unclean; the Mothers of the new Church are threatening the future by the whitewashing of women and the doctrine of the uncleanness of men." (P. 446.)

[9] The point of view of the sentimentalists is well illustrated in the following characteristically weak book by a woman writer:—Jane Addams, "A New Conscience and an Ancient Evil," New York, 1912. A still weaker presentation of the same point of view is to be found in the following book by another woman:—Maude E. Miner, "Slavery of Prostitution," New York, 1916.

Since the abolition of prostitution is impossible at present, the practical question is as to whether or not regulation is possible, and what kind of regulation is desirable. This is a much more difficult question than the regulation of the other social evils which have been described in this book. Alcohol and the habit forming drugs are poisons, and therefore can be beneficially used only for medicinal purposes. A craving for them is unhealthy and abnormal. Gambling is due to certain human weaknesses which need constant restraint. But the primary cause of prostitution is the sexual impulse, which is one of the most powerful and most useful dynamic forces in human nature. Consequently, prostitution must be regulated with the utmost caution in order not to diminish the utility of sex in the life of mankind.

So long as prostitution persists society must take cognizance of it and decide how to deal with it. The difference of opinion with respect to this question ranges all the way from the opinions of those who think that prostitution should not be regulated at all to the opinions of those who think that it should be strictly regulated. The discussion of this subject involves the study of the administration of police measures, the treatment of the procurer and the pimp, and various sanitary measures. These measures will be described in the following chapter.

CHAPTER XVI

THE REGULATION OF PROSTITUTION

Prostitution has been regulated by the law at many times and places. In recent years it has been customary to regulate it in most of the European countries. The principal objects of such regulation have been to rob prostitution of needless publicity, to limit its scope as far as is feasible, to lessen as far as possible its influence as a factor for disease, and to aid in the detection of criminals.

Among the principal measures used to attain these ends have been the prohibition of soliciting in the streets and other public places, the segregation of houses of prostitution, the registration of the prostitutes, the periodical medical examination of the prostitutes, and the establishment of a special morals police for the supervision of prostitution and for the enforcement of these regulations.[1]

[1] The legal and police regulation of prostitution has been described by many writers, among whom may be mentioned the following:—A. J. B. Parent-Duchatelet, "De la prostitution dans la ville de Paris," Paris, 1857, 2 vols.; W. W. Sanger, "The History of Prostitution," New York, 1859; W. Acton, "Prostitution Considered in Its Moral, Social, and Sanitary Aspects," London, 1907; S. Amos, "A Comparative Survey of Laws in Force for the Prohibition, Regulation, and Licensing of

OPPOSITION TO REGULATION OF PROSTITUTION

But such regulation has encountered violent opposition from various sources. Many persons, especially in this country and in Great Britain, have denounced as iniquitous the official recognition of this evil by the state. They have advocated the ostrich-like attitude of ignoring its existence, either because they indulge vain hopes of being able to exterminate it entirely, or because this is the easiest policy.

This is the point of view ordinarily assumed by the religionist and the professional moralist. Some individuals, especially in England, have opposed regulation from the individualistic point of view on the ground that it is an unjustifiable invasion of the rights of the prostitutes and of any other persons concerned. Other individuals have opposed it on the ground that regulatory measures have failed in practise.[2]

Vice in England and Other Countries," London, 1877; Y. Guyot, "Prostitution under the Regulation System," London, 1884; F. Regnault, "L'évolution de la prostitution," Paris, 1906. Also the following articles in the *Archives d'anthropologie criminelle:*—V. Augagneur, *La prostitution des filles mineures,* Vol. III, 1888, pp. 209–28; Wahl, *Peut-on supprimer la prostitution?* Vol. XIX, 1904, pp. 475–83; J. J. Matignon, *La prostitution au Japon, le quartier du "Yoshiwara" de Tokio,* Vol. XXI, 1906, pp. 697–715; E. Pachot, *Le régime actuel des mœurs en France, sa reforme,* Vol. XXIII, 1908, pp. 697–721.

Flexner gives a good description of regulation in Europe in recent times, but is obviously much prejudiced against regulation. (A. Flexner, "Prostitution in Europe," New York, 1914.)

[2] Several international congresses for the advocacy of the

In view of what has been said it is obvious that the first point of view is wholly untenable. Inasmuch as it is hopeless to exterminate prostitution, it is stupid and harmful to ignore its existence and to refuse to face the problems it presents. The second point of view has some justification, since prostitutes and others concerned have frequently been mistreated by regulatory measures. But it must be remembered, on the other hand, that certain social interests are involved which must be safeguarded. It is also true that regulatory measures have frequently failed in practise, either because they were not feasible measures or because they have not been administered efficiently. But this is not conclusive proof against regulation, so that the third point of view cannot be justified.

THE PRINCIPLES OF REGULATION

It is impossible to describe here all of the regulatory measures which may be used. But the principles upon which they should be based can be stated briefly. To begin with, prostitution as such should not be stigmatized as criminal for reasons which have already been adequately stated. The regulation of prostitution should have the same status as the regulation

abolition of the regulation of prostitution have been held. All of these points of view have been represented in these congresses, and the strange vagaries of some of these so-called "abolitionists" are revealed in their reports.

of many other professions in the behalf of the public welfare.

The publicity of prostitution should be restricted by law as much as is feasible. The principal reason for this restriction is the protection of the young. It goes without saying that it is needless and frequently harmful for the sexually immature to come in contact with this profession. But it is desirable also in order to avoid unnecessary stimulation of the sexual impulse in the sexually mature as well. This impulse is usually strong enough to manifest itself so far as is useful without any artificial stimulation.

Furthermore, inasmuch as sex relations are essentially private and intimate in their nature, they should not be degraded by giving them needless publicity. By this I do not mean a prudish concealment of the facts of sex, but a judicious restraint upon the flaunting in the face of the public at every turn of the activities of a profession whose function is the gratifying of sexual passions.

Such public advertizing and exploitation of sex inevitably shocks the feelings and sentiments of most persons. It is liable to hinder the efflorescence of the play function of sex in its more complex forms. In this respect prostitution is no more indecent than weddings and conventional marriage in general are indecent in the vulgar publicity which they give to inti-

mate personal relations between individuals of the opposite sexes. But weddings and marriage have the sanction of the church and the state, while the unfortunate prostitutes are trod into the mud of social scorn and degradation.

METHODS OF REGULATION

Various methods may be used to restrict the publicity of prostitution. Open soliciting on the streets, in theaters, and in other public places should be prohibited. But the police should not be permitted to hound the prostitutes by arresting them every time they appear in the streets. The courts should require incontrovertible proof of public solicitation before convicting.

Ordinarily prostitutes should be prohibited from residing, or, to say the least, from plying their trade in certain sections of the city. As a general rule, they should be barred from carrying on their professional activities in the residential sections. They should be limited in this respect to the outskirts or other isolated parts of the city, or to the business districts.

Whether or not it is desirable to have a definite segregated district depends upon local conditions. In Japan and elsewhere this method has been very successful. It has the great advantage of making possible a very close supervision over the prostitutes. It is probably the best method in great commercial centers and

wherever there is a large transient population. In smaller and quieter communities with a more stable population it may not be desirable. But in all cases the sale of alcoholic liquors should be prohibited in houses of prostitution because of the disorder which is sure to result from it, and advertizing by prostitutes should be narrowly limited.

Enforced medical examination of prostitutes has frequently been more or less of a failure because it has been carried out very inefficiently. But the venereal diseases constitute so grave a social evil that medical inspection should be rigorously enforced wherever possible. In the places where this has been done the venereal morbidity has been greatly diminished.[3] The

[3] See, for descriptions of the medical inspection of prostitutes and of naval sailors and marines in this country, P. S. Schenck, *Control of Social Diseases*, in *The South Mobilizing for Social Service*, published by the *Southern Sociological Congress*, Nashville, 1913, pp. 115–127; R. A. Bachmann, *The Morality of Venereal Prophylaxis*, in the *N. Y. Medical Journal*, February 21, 1914; C. E. Riggs, *A Study of Venereal Prophylaxis in the Navy*, in *Social Hygiene*, Vol. III, No. 3, July, 1917, pp. 299–312.

Dr. W. Fischer, police physician of Altona, Germany, reports the following interesting facts. Of the registered prostitutes in that city there were found diseased in 1908, 3.3%; in 1909, 2.7%; in 1910, 2.4%; in 1911, 2.2%; in 1912, 2%; in 1913, 1.8%; in 1914, 2.1%. From September, 1914, to April, 1915, there were examined 1,070 clandestine prostitutes of whom 336, or 31%, were found to be diseased. That is to say, the venereal morbidity among these clandestine prostitutes, who were not subject to regular inspection, was about fifteen times as great as among the registered prostitutes who were subject to regular inspection. So that medical inspection, when efficiently administered, is apparently very effective in

prostitutes are the principal centers of venereal infection and every possible measure should be taken to lessen their dangerousness. Persons who, owing to ethical prepossessions and religious prejudices, oppose these measures on the ground that they constitute official recognition of an immoral profession are among the worst enemies of the health and welfare of mankind.[4]

It goes without saying that the medical inspection of prostitutes should be supplemented with the spreading of knowledge among the public at large of prophylactic measures. In fact, every sexually mature person should be adequately instructed in sexual hygiene and in the control of procreation. Not otherwise can human beings regulate wisely this important aspect of their lives.

Ample clinical and hospital facilities should be provided for the treatment of all venereally infected persons, and no invidious distinctions should be made between these patients and

reducing venereal disease. (*Zur Bekämpfung der Geschlechtskrankheiten*, in the *Medizinische Klinik*, Vol. XI, No. 34, August 22, 1915, pp. 936–938.)

[4] Such opposition has been regrettably prevalent in this country. Many attempts to require medical inspection of prostitutes have been rendered abortive by the ignorant and dangerous opposition of clergymen, professional moralists, vice crusaders, women's clubs, social hygiene associations, societies for the prevention of vice, and what not. Recently the chief of police of an American city endeavored to enforce a regulation that prostitutes should be required to furnish their customers with prophylactic instruments for the prevention of disease, but was forced to desist before long because of the public outcry against this so-called official recognition of vice.

those who are afflicted with other diseases. In course of time medical examination may be required of all persons and treatment may be made compulsory for all ailments. When that time comes there will be no longer any invidious discriminations against prostitutes in these respects.

We come now to the perplexing question of the registration of habitual prostitutes. Such registration is customary in many parts of Europe and has been tried in some American cities. It has been denounced as an official recognition of prostitution and as stigmatizing the prostitutes unnecessarily and putting them in the power of the police. But it helps greatly in carrying out regulatory measures, especially with respect to limiting the scope of prostitution, medical inspection, and the detection of criminals. If prostitution is not made a crime and the regulation is not too drastic, the power of registering prostitutes is not likely to be abused by the police.

The desirability of a special morals police depends largely upon local police conditions. When properly organized and controlled, such a body is likely to be useful in large cities. But in smaller places there is usually no need of it.[5]

[5] For an exhaustive discussion of the problems connected with the morals police, see the following report of a French extra-parliamentary commission:—L. Fiaux, "La police des mœurs," Paris, 1907–1910, 3 vols.

Regulatory measures can never be applied to all of the prostitution that exists, for there will always be some clandestine prostitution. Such regulation can reach only the habitual prostitutes and not all of them, but cannot reach the large number of women who prostitute themselves occasionally. Furthermore, it is only fair to the prostitutes to recognize that in the broadest sense of the word any pecuniary remuneration for sexual gratification alone constitutes prostitution. Consequently, a vast number of idle wives and "kept" women contribute to the sum total of prostitution. At present, to say the least, these quasi-prostitutes cannot be reached by the above-mentioned regulatory measures, but there is not the same social need for their regulation that there is for the regulation of the highly promiscuous habitual prostitutes.

In all probability there will always be at least a small amount of corruption in the administration of these regulations, just as there is in every branch of police activity. But the best guarantee of the effectiveness of these regulations and the best preventive of corruption is to avoid making these measures too drastic. Whenever the authorities stigmatize prostitution as criminal and endeavor to stamp it out entirely, regulations become ineffective and corruption becomes rife, thus demoralizing the police and endangering the lives and property of

the public. If the wiser policy of recognizing and permitting the irreducible minimum of prostitution is adopted, regulatory measures will have a fair prospect of success.

THE PIMP

In this connection may be mentioned the treatment of the pimp by the law. The pimp is a character who merits more or less the obloquy cast upon him by society. But he scarcely deserves the drastic treatment meted out to him by the law,[6] because several things may be said in extenuation of the pimp.

In the first place, the existence of the pimp is due in many cases to the natural and normal desire of the prostitute for a more or less permanent relationship with a man. This relation gives her relief from the ordinary sexual promiscuity of her life, and furnishes her an object for what is frequently a genuine love and devotion. In fact, in these cases the pimp is for her the mate craved by every normal human being, and it is even conceivable that in some cases this feeling is reciprocated by the pimp. So that the pimp is sure to exist as long as prosti-

[6] The New York State law reads as follows:—"Every male person who lives wholly or in part on the earnings of prostitution, or who in any public place solicits for immoral purposes, is guilty of a misdemeanor. A male person who lives with or is habitually in the company of a prostitute and has no visible means of support, shall be presumed to be living on the earnings of prostitution." (*N. Y. State Penal Code*, 1915, Section 1148.)

tution, and it is fatuous to expect to destroy him by the law.

In the second place, the pimp is frequently useful to the prostitute. Sometimes he protects her from physical violence on the streets and elsewhere. But more frequently he assists her in her conflicts with the law. He furnishes this assistance by securing bail for her when she is arrested, by engaging counsel for her defense, by keeping in touch with her when she is committed to a prison or a hospital, and by aiding her to reëstablish herself when she returns to the practise of her profession. In fact, in many cases it would be impossible for her to maintain herself without his assistance, and he becomes in effect a partner with her in her profession.

Now it may appear as if the law should try to suppress the pimp because of the assistance which he furnishes to her. But it must be recognized that she needs this aid largely on account of the harsh and drastic treatment which she frequently receives from the law and the police. She is usually too weak and ignorant to obtain even the barest justice in the courts without this aid, and she would become to an even greater extent the prey of the police, bondsmen, lawyers, etc. The actual situation in a vast number of cases is that the prostitute is driven unwillingly into the arms of the pimp by the persecution and hounding she receives

at the hands of the police, the courts, etc. However much he may maltreat her and deprive her of her earnings, she is under many circumstances better off with him than she would be alone. So that the prevention of the pimp depends more upon the reform of the law in the direction of a more just and lenient treatment of the prostitute than it does upon the legal prohibition of the pimp. This is one of the most horrible features of the present situation that the law itself puts the prostitute so frequently at the mercy of the pimp.

In the last place, it may be said in extenuation of the pimp that he should be classified with the other parasitic classes in society, such as the idle wives and the leisure class of men and women in general. To be sure, the pimp may seem to display rather less delicacy of taste as to the manner in which his income is acquired. And yet who shall say that it is any worse than the taste of the numerous wealthy men and women whose income is derived from the suffering and sacrifice of millions of men, women, and children who are sweated in the factories, fields and elsewhere; or the taste of the many women who have bartered themselves in the "holy" bonds of matrimony for the pecuniary consideration of a life of indolent luxury. If the pimp is to be penalized, it would perhaps be only just to him to penalize these other parasites as well.

At the same time, as has already been said with regard to procuration, any man who forces a woman into prostitution and keeps her in it against her will should be severely punished. The prostitute should be given ample recourse at law and effective protection against the man who coerces her or who terrorizes her into giving to him her earnings. Among the criminal procurers and pimps are to be found some of the vilest men and women in existence. They seem to be destitute of most of the kindly feelings and are responsible for a form of human slavery almost as hideous as any which has ever existed.

THE "AGE OF CONSENT" LAW

Another example of unwise legislation due to the hysterical agitation against prostitution and alleged sexual immorality is with respect to the "age of consent" for females. In many places the penal law now prescribes that sexual intercourse with a female under eighteen years of age to whom the culprit is not married constitutes rape.[7] In some places the age of con-

[7] For example, the New York law reads as follows:—"A person who perpetrates any act of sexual intercourse with a female, not his wife, under the age of eighteen years, under circumstances not amounting to rape in the first degree, is guilty of rape in the second degree, and punishable with imprisonment for not more than ten years." (*N. Y. State Penal Code*, 1915, Section 2010.)

It may be pointed out that rape in the first degree takes place when there has been resistance, or when resistance has been impossible.

sent is even higher and many anti-vice societies and other religious, ethical and reform organizations are constantly endeavoring to push the age limit up as high as possible, even as high as twenty-one years.

Now it is evident that the female attains sexual maturity considerably earlier than any of these ages, usually as young as fourteen or fifteen years of age. Consequently, it is possible for the female of fourteen or fifteen to be morally and sexually, so to speak, responsible for sexual intercourse. In other words, she may be the seducer herself, instead of having been seduced or raped, and, as a matter of fact, this is the actual situation in many cases. Indeed, it is conceivable that she may be morally responsible even before she has attained sexual maturity, for curiosity or some other motive may lead her to induce a boy or man to have intercourse with her. It is obvious that it would be the grossest injustice in any one of these cases to punish the male.

Furthermore, it is an insult to the female of twenty, or eighteen, or sixteen, or even fifteen or fourteen, to assume that she is totally lacking in intelligence and discretion, and that her part in sexual intercourse could be nothing more than that of an automaton. But what is much worse is that it is positively anti-social and therefore immoral to regard as morally irresponsible a person who can be and doubtless is

responsible, for by so doing such persons will escape the just consequences of their acts. One of the greatest achievements in the evolution of criminal law has been the gradual recognition of the moral responsibility of the individual, so that the legislation with respect to the age of consent for females is a distinct step backward in the history of law.

For all of the above reasons there can be no excuse whatsoever for an arbitrary age of consent for females. The existing laws against seduction and rape are amply sufficient to cover all of the cases of enforced and involuntary sexual intercourse for all females of any age whatsoever. Furthermore, the usual legal criteria of responsibility can be applied in these cases as in all other cases where extreme youth raises a question as to the moral responsibility of the individual.

But this is not all that can be said against these laws. Such legislation has failed almost entirely of its intended effect because judges and juries are naturally and wisely slow to inflict the penalty when there is more or less probability that the female is as responsible or even more responsible than the male. There is little question that some genuine crimes of rape have escaped their just punishment when prosecuted under such a law because the courts have been fearful of punishing innocent persons.[8]

[8] Havelock Ellis cites evidence that the law has been prac-

But what is still worse is that such legislation renders still more facile the bringing of false accusations against innocent men. This is sometimes done by hysterical or insane females who do not even realize the falsity of their accusations. Or it is done for purposes of blackmail by clandestine prostitutes or by other immoral and criminal females.

While these accusations are not necessarily successful when prosecuted, or may not even be prosecuted, they are almost certain to do a vast amount of injury to their innocent victims, and thus cause much injustice. It is easy enough to make false accusations under the existing laws against seduction and rape. It is easier to do so under the "age of consent" law, because less evidence is needed for conviction under this law.

tically inoperative in New York State where the age of consent is eighteen, and that there has not been a single prosecution under the law in New South Wales where the age of consent is no higher than sixteen. He comments as follows upon the reasons for the failure of such legislation:—

"Juries naturally require clear evidence that a rape has been committed when the case concerns a grown-up girl in the full possession of her faculties, possibly even a clandestine prostitute. Moreover, as rape in the first degree involves the punishment of imprisonment for twenty years, there is a disinclination to convict a man unless the case is a very bad one. One judge, indeed, has asserted that he will not give any man the full penalty under the present law, so long as he is on the bench. The natural result of stretching the law to undue limits is to weaken it. Instead of being, as it should be, an extremely serious crime, rape loses in a large proportion of cases the opprobrium which rightly belongs to it." (H. Ellis, "The Task of Social Hygiene," London, 1912, p. 290.)

CHAPTER XVII

SEX EDUCATION AND TRAINING

THE young will always need discipline and training with respect to sex as with regard to every other aspect of life. Previous to puberty there is comparatively little sexual feeling and desire, so that there is slight need of direction and restraint. But during this early period the child should be given an accurate scientific knowledge of the aspects of sex which it is capable of understanding, in order to prepare it for the time when matters of sex will be of vital importance for it.

Every intelligent child is sure to have its curiosity aroused with respect to the origin of human beings, its relations to its parents, and the relation of its parents to each other. Consequently, rather than to keep it in ignorance with regard to these important facts or to permit it to acquire misinformation from other sources, it should be taught the elementary facts with respect to reproduction and the family organization by its parents or other adults who have care of the child.

This teaching should include the essential facts with regard to the fertilizing of the mother

by the father, the growth of the child within the mother and its delivery from the mother, the love of parents for their children and their duty to care for them, and the family as the natural unit for the rearing of children. Children can be taught these facts and should know them previous to puberty. This teaching can be made more interesting and more concrete by illustrations from animal and plant species, and such illustrations will indicate to the child its relation to the organic world.

CHARACTERISTICS OF PUBERTY AND ADOLESCENCE

But the child is incapable of understanding many of the features of the sexual life of man until it experiences the sexual instincts and emotions. These instincts and emotions do not mature until after puberty is reached. Recent psychological research has, however, proved that even previous to puberty the child may experience sexual impulses and feelings.[1] The sexual organs and the other erogenous zones are peculiarly sensitive to stimulation from the time they first develop, so that parents should guard their children from such stimulation from the earliest infancy.

Puberty takes place for boys usually from thirteen to fifteen years of age, and for girls usually from eleven to fifteen years of age.

[1] For example, the literature of psychoanalysis furnishes much evidence of sexuality in infancy and childhood.

This is the age at which the sexual organs attain maturity and the physiological processes connected with sex commence. During puberty also develop the secondary sex traits, such as the beard and the bass or tenor voice in the boy, and the well-rounded breasts in the girl. Furthermore, at this age there take place certain psychological changes which are of great importance. Puberty is also a period of rapid growth for the young.

There are great individual differences between children in their sexual traits as in all their traits. The age at which puberty is reached is not the same for all. The rapidity with which the sexual organs mature, and consequently the length of duration of the period of puberty and adolescence, varies considerably from one person to another. The physical changes caused by puberty have a varying effect upon the mental states of the boy or girl.

At puberty the sexual glands begin to secrete their characteristic fluids. These fluids contain the germ cells which when fertilized develop into new human beings. But the secretions of the sexual glands, like those of several other glands in the body, also send stimuli to all parts of the body and thus have a constitutional effect. This stimulation apparently takes place by the absorption of some of the fluid secreted by the sexual glands into the blood, which is then carried through the vascular system and excites

the nerve centers in many parts of the body.

This stimulation is a new experience and a new factor in the life of the adolescent. It has a marked effect upon the mental states of the individual. It is the principal cause in the adolescent of the restlessness, the excitability, the variability of mood, the awakening of ambition, the shyness and reticence, and the new romantic interest in the opposite sex which characterizes adolescence. It is an indication of the maturing of the sexual instincts and emotions which will thereafter play an important part in the life of the individual.

This physical and mental condition puts the adolescent under great strain, and not the least trying feature of this condition is the ignorance of the adolescent as to its causes. It is therefore most important that as rapidly as is feasible this information should be furnished to the adolescent. The way in which it is given must be adjusted to the previous education, the intelligence, and the temperament of the individual adolescent. Consequently, it demands the best judgment and the utmost sympathy and tactfulness on the part of the parent or teacher.

On account of the extent of the changes of puberty and adolescence and their great significance for the after life of the individual, parents should watch their children carefully for the first signs of puberty. If they are not sure of being able to detect these signs, it may be well

to use medical assistance for this purpose. They should then be prepared to give their children the physical care, the training, and the instruction which their condition demands.

Owing to the great strain caused by rapid growth and the changes which have been described, adolescents should be under the best possible physical conditions. They should have plenty of wholesome food, restful sleep, and opportunity to play, and should not be required to work very hard. Furthermore, this is an important period for the training of character, during which the will, the judgment, and the sympathetic nature of the adolescent should be developed as highly as possible. However, in these respects the period of puberty and adolescence does not differ greatly from the earlier period in the life of the young, for it goes without saying that during early childhood also the physical environment should be good and the character should be trained.

But with puberty come the physiological processes connected with sex and their mental consequences. These changes mark this period off sharply from the previous life of the individual and call for several changes in the training and education of the adolescent.

The significant difference, therefore, between adolescence and the pre-adolescent period is that with the arrival of puberty come impulses and feelings which give rise to new mental

states and may lead to new kinds of conduct. While the information given to the pre-adolescent is largely in response to an intellectual curiosity with respect to the facts of reproduction, the information now given should be for the purpose of influencing the mental condition and directing the conduct during the period of mental and physical stress incident upon the changes of puberty and adolescence. Furthermore, pre-adolescent experiences do not furnish an adequate basis for comprehending the relations between men and women, so that this comprehension can be attained only after puberty is reached, and it should be the purpose of the sex education of adolescents to give them this comprehension.

SEX EDUCATION FOR ADOLESCENTS

It is not an easy task to outline a system of sex education for adolescents nor to apply such a system in individual cases. It is doubtless true that it would be well to put as much as possible of this instruction for adolescents as well as for the younger children into a general scheme of scientific education to be carried out in the schools. In such a scheme the facts with regard to reproduction would be taught at the proper point in the study of the organic world. They should, of course, be taught by teachers who are well equipped for the task and who will point out the relation between these

facts and the other facts of nature. Thus the child and adolescent would learn many of the essential facts concerning sex without any undue emphasis which would arouse an abnormal interest in them. This teaching should be as impersonal as possible.

Unfortunately few if any schools as yet furnish adequate instruction on this subject, and many of them offer none at all. So that it is at present incumbent upon most parents to furnish all or most of this instruction to their children. And even if the schools generally offered adequate instruction concerning sex, it would still be necessary for parents to play an important part in the sex education of their children.

The school teacher cannot be well acquainted with the individual peculiarities of his or her pupils. In fact, the teacher should ordinarily deal impersonally with these matters so far as the pupils are concerned. On the other hand, the parents are the natural advisers and confidants of their children in such matters. They can and should acquaint themselves with the individual peculiarities of their children, and should try to attain a footing of sympathetic intimacy with them.

Parents must prepare themselves for this task. In the first place, it would be well for them to recollect as vividly as possible their own experiences during puberty and adolescence in order to be able to sympathize to the

highest possible degree with the corresponding experiences of their children. In the second place, they should acquaint themselves with the anatomy and physiology of the sexual organs and the changes which take place during puberty and adolescence. In the third place, it would be well for them to acquaint themselves with the psychology of puberty and adolescence and of sex in general.

The best source of information concerning the anatomy and physiology of sex is to be found in the standard general treatises on anatomy and physiology. From these works available in the libraries the parent, though a layman in science, can glean enough information for the sex instruction of the adolescent. Many popular books for adolescents and for the parents of adolescents have been written. But most of these books unfortunately are not scientifically reliable, because they have been written by religionists and professional moralists with a religious and moral bias or by other equally incompetent persons. In any case, the standard works furnish the best source of information.

In addition to this information the marital and parental experiences of the parents should aid them greatly in determining what kind of training and instruction are needed by their children to prepare the children for similar

experiences when they have attained maturity.

With this preparation parents should be able to make their offspring comprehend the functions of sex. In all of the species characterized by sex the first and fundamental function of sex is the reproduction and the perpetuation of the species. But in all of the higher animals sex has attained another function which in man has acquired great cultural value. In order to bring the sexes together for purposes of reproduction and to provide for the care of the young, powerful instincts and emotions have evolved in the higher animals, and especially in man, which attract the sexes to each other and hold together those who have mated in order to form the family group in which the young can be reared.

This secondary function of sex, which I have named the play function, has played an important part in social and cultural evolution both because it has caused the evolution of the family, and because these sexual instincts and emotions have caused much of human achievement in art, literature, and philosophy. Furthermore, many military, political, and economic achievements have been due to male gallantry in behalf of women and sexual rivalry among men, while the tender devotion of woman for man has enriched human life greatly.

The instruction in each case must be adjusted according to the best judgment of the parents to the peculiarities and circumstances of the individual adolescent. The age at which and the extent to which curiosity is aroused with respect to sex varies considerably from individual to individual and is influenced somewhat by the environment. If there has been no school instruction in sex and no parental instruction during early childhood, then the instruction must begin with the elementary facts concerning sex. In doing so the parents should endeavor to ascertain whether or not the child has already acquired any misinformation on the subject, and then try to counteract the effects of such misinformation.

If the child has already received school or parental instruction, then the endeavor of the parent should be to supplement the knowledge already received so as to make it more adequate with respect to the functions and significance of sex. If there is school instruction but the child is intellectually precocious or puberty comes unusually early, it may be well for the parent to anticipate the school instruction by furnishing the desired information. In some cases it may be possible to quiet the child's questionings until such time as it receives the information in school. But as a rule it is better to give the information as soon as curiosity has been aroused.

There is perhaps no period of life during

which a sympathetic understanding of his or her condition is more needed than by the adolescent. For this reason it is as a rule preferable that the male adolescent shall receive his sex instruction from his father and the female adolescent shall receive her instruction from her mother. It is obvious that the father can understand more sympathetically the condition of the son because of his own experience with male adolescence, and that the mother can understand more sympathetically the condition of the daughter because of her own experience with female adolescence. But it is also well that at times the adolescent should discuss these matters with both parents in order to realize more fully than would otherwise be possible the mutuality of the parenthood of the parents and their coöperation in the rearing of their offspring.

In the first place, the education of the child concerning the reproductive process may now be completed in connection with the explanation of the physiological processes which begin at puberty. The significance of the periodic menstruation for reproduction should be explained to the girl and the corresponding significance of the seminal flow should be explained to the boy. At the same time or as soon after as seems advisable the adolescent of each sex should be told of the related physiological process in the opposite sex.

The adolescent will now have an adequate conception of the function of sex in parenthood and of the mutual character of parenthood. In this connection it may also be well to describe briefly the nature of the parental instincts and emotions which are already awakening and which will attain their full expression later when the adolescent experiences parenthood.

In the second place, the adolescent should now be taught as far as is feasible the significance of the relations between the sexes apart from and in addition to reproduction. The main object of this instruction should be to make the adolescent realize that, in addition to resulting in reproduction and all that parenthood implies, the sex relation is an important and necessary part of a full and satisfactory life throughout maturity. It should therefore be impressed upon the adolescent that it is his or her duty and interest to prepare for a permanent sex relation which will add greatly to the happiness and richness of life. It goes without saying that the chief requisite to attain this end is the choice of a suitable mate both for mutual parenthood and as a life companion.

The instruction with respect to the second or play function of sex may and should be commenced before the age of sixteen is reached. But it need not and in many cases cannot be completed until after that age is passed, and should be continued for some years longer until

the adolescent has attained maturity and is prepared in every respect to contract a sex relation. This part of the sex education should be connected with a discussion of the larger aspect of sex as a powerful force in social and cultural evolution.

In some cases the discussion of the cultural significance of sex may begin before the age of sixteen is reached, but in other cases it may not be feasible to do so until later. In fact, the time for commencing the second part of sex education must depend upon the individual peculiarities of the adolescent. If puberty is tardy or the intelligence is sluggish it may be necessary to postpone most of this part of the education until after the age of sixteen.

NEGATIVE SEX TRAINING

The fundamental note of all sex education should be positive with a view to preparing the young for a sex life which will be normal in every respect during maturity. But it is also necessary to touch more lightly upon the negative side of sex in order to guard the young against the dangers incident to sex.

The extent to which it is necessary for the parent to discuss these matters with the adolescent must depend upon the environment and traits of the individual. If the environment furnishes many temptations and the adolescent is temperamentally prone to succumb to such

temptations, it may be necessary to discuss these dangers at length and in great detail in order to impress the adolescent with the importance of avoiding them. But otherwise it is preferable to delay the discussion of these matters until later, perhaps until after the age of sixteen is passed, in order to put the emphasis on the positive aspect of sex.

In all discussion of these dangers the utmost care should be taken to avoid shocking and alarming the boy or girl in such a way as to cause a shrinking and fearful attitude towards sex which will interfere with a normal sex life during maturity. In fact, such a shrinking and fearful attitude is in itself a serious danger, because it may lead to frigidity or psychic impotence.

The principal dangers to be mentioned are those of disease, self-abuse, and premature parenthood.

The diseases connected with the sexual organs and communicated by sexual relations which are called the venereal diseases are, like all other diseases, disagreeable and distasteful to contemplate. They are peculiarly offensive in their nature because they are connected with organs and processes which have a peculiar value and significance for the individual and for the race. For this reason it is desirable to keep the knowledge of the existence of these diseases from the young as long as it is safe to do

so, in order to avoid the possibility of marring the beauty of their first impressions of sex with a repugnant association.

But if their environment puts them in danger of these diseases, they should be informed fully and frankly as to the nature of these diseases as soon as seems necessary. They should be duly impressed with the seriousness of these diseases, but these dangers should not be exaggerated, because such exaggeration may cause a reaction against sex which will interfere seriously with the normal sexual activity of the individual throughout maturity.

There is much danger that adolescents, and especially boys, will acquire the habit of masturbation. Parents should watch their children with a view to ascertaining whether or not this habit is becoming established. They should explain to the boy or girl that such a habit is a strain upon the body and mind and is not a normal form of sex expression. Along with such instruction the parents should take prophylactic measures, the most important of which is to furnish the adolescent with plenty of opportunity for vigorous out-of-door exercize.

From the humane point of view no form of parenthood is offensive. But it should be impressed upon adolescents that it is not desirable to become a parent until sufficient maturity has been attained to fit a person for the rearing of children and until a suitable mate has been

found. Premature parenthood is obviously unfair to the offspring. The girl especially should be taught the dangers of premature pregnancy and motherhood. The boy should be brought to realize the seriousness of causing pregnancy in a woman and of becoming a father himself.

Adolescents of both sexes should be made to feel that for biological, economic, and social reasons they are not fitted for parenthood but should be preparing for it. They should be taught contraceptive measures so as to be able to use them when they begin to have sexual relations. They should also be given some knowledge of eugenics to aid them in choosing a suitable mate for mutual parenthood. They should be made to feel that not until a suitable mate has been found are they ready for successful biparental rearing of offspring.

There are various other dangers in the sex life of mankind, such as the sexual aberrations and perversions. But it would be gratuitous and sometimes harmful to describe these aberrations to the adolescent unless he or she displays a marked tendency to acquire one of them. This probably happens most frequently when habitual masturbation is likely to give rise to permanent auto-erotism. However, it is needless for most adolescents to learn of these aberrations before maturity has been reached.

CHAPTER XVIII

THE ORGANIZATION OF SEX RELATIONS

The preceding ten chapters furnish a brief survey of man's attempts to organize and regulate one of the most important aspects of his life, namely, his sex life. This survey reveals a long series of blunders and failures which have caused a vast amount of unhappiness and misery for mankind. It is only necessary to mention asceticism, the double standard of sex freedom, prostitution, bastardy, indissoluble marriage, the venereal diseases, the sexual aberrations, frigidity, psychic impotence, the mismated and the unmated to indicate the extent of this misery.

The sex problem was much simpler for primitive men. We are probably justified in surmising that under the influence of the sexual urge early men took their sexual gratification as they could find it. The males appropriated the females for this purpose, and the females probably did not usually resist because it was a source of gratification for them also. Perhaps the only sufferers were a few of the weaker men who were unable to secure mates.

But as time went by many restrictions arose, some of which have been described in the preceding chapters. The discovery of the causal relation between sexual intercourse and reproduction led to many of these restrictions. Magical and religious beliefs gave rise to many restrictions. Among primitive peoples totemic and exogamous regulations of sex played an important part. These regulations have disappeared almost entirely among civilized peoples. The evolution of more or less permanent forms of economic and social organization led to more or less fixed types of sex relationship. Various forms of marriage thus arose, including group marriage, polygyny, polyandry, and monogamy.

Monogamy has become the conventional type of marriage among practically all civilized peoples, and is recognized and enforced by the law. This type of marriage is supported in part by the prevalent theory that mankind is by nature monogamous and not promiscuous. But this theory is not necessarily proved by the available facts. It is evident that monogamous marriage is maintained in large part by artificial institutions and conventions which may or may not be in accordance with human innate tendencies. As a matter of fact, there was doubtless a great deal of promiscuity among early men, while there is still much promiscuity outside of the conventional bonds of marriage despite the

powerful forces of law, religion, and conventional morality.

The truth probably is that while there are certain strong forces for monogamy, which I will mention presently, human sexual impulses and desires are more or less wayward according to the nature of the education and training received and the exigencies of the environment. In other words, it is impossible to characterize mankind categorically as either monogamous or promiscuous. Both of these tendencies must be recognized in human nature. It is very essential that this fact should be remembered in any attempt to organize sex relations.

It is customary nowadays to regard purity in sex relations as limited to the conventional monogamic relation. Monogamy is characterized as "chaste" and "continent" as contrasted with all other relations which are by implication "unchaste" and "incontinent." This notion is especially pronounced as applied to woman. Virtue in woman is restricted almost entirely to her conformity to the prevailing sex mores.

It is obvious that these terms are grossly misused. Purity and virtue are concerned with the whole life of man, and not with the sex life alone. Chastity is sexual abstinence. Continence is self restraint in sexual indulgence. Consequently, it is to be expected that monogamic marriage is very frequently, perhaps

usually, far more unchaste and incontinent than other forms of sexual indulgence, because it has the advantage over these other forms of possessing the sanctions of law, religion, and conventional morality.

An excessive degree of reticence prevails at present with respect to the discussion of sex matters. This reticence is due in part to the strong emotional content of sex which makes it difficult for men and women to discuss matters of sex calmly and impersonally. But this reticence has been exacerbated into an unnatural and almost morbid attitude towards sex by sex repression arising out of magical and religious notions with respect to the uncleanness of sex, and the conventional ideas with respect to the impurity of sex manifestations outside of the orthodox monogamic bond.

An intelligent discussion and solution of the sex problems of the day demands a frank and natural mental attitude towards sex. It must be recognized that the sex life is one of the most important aspects of human life, and that the gratification of the sexual impulse is an imperative need second only to hunger. The prevailing sex taboo, on the contrary, gives rise to an unhealthy and ugly pruriency.

On the other hand, as soon as the sex problem is frankly faced and solved, sex will no longer occupy an exaggerated place in the consciousness of mankind, as is the danger under exist-

ing conditions of sex repression. Under such repression sex tends to break out at many points and to color human activities unduly, thus giving modern civilization a misleading appearance of being over-sexed. Furthermore, when sex is repressed it is very likely to manifest itself in pathological forms, as, for example, sexual aberrations. If sex were given its proper scope, it would not invade other spheres of human thought, feeling, and activity.

SEX RELATIONS FOR YOUNG ADULTS

The starting point for an intelligent discussion and solution of the sex problem doubtless is sex education and training. Such a system of education as has been described in the preceding chapter would develop a natural and frank attitude towards sex on the part of the young. It would furnish each adolescent an intelligent comprehension of all the interests involved in the sex relation, namely, the interests of the opposite sex and of possible offspring, as well as his or her own interests. Thus the adolescent would be enabled to estimate fairly accurately the extent to which sexual indulgence is desirable and justifiable, and what degree of self restraint is demanded by the interests of others.

Such restraint will be far more effective and beneficial in the long run than the artificial restrictions which arise out of secrecy, beliefs contrary to the patent facts of human nature,

and the coercion which arises therefrom. It will give rise to a genuine continence in the place of the spurious continence of the conventional marriage of today. It will supply most of the check which is needed upon the tendency of the sex passion to become unruly and incontinent.

It is believed by many persons that the sex impulse is so powerful that society should place heavy restrictions upon it. It goes without saying that incontinence is bad for all, especially for men, since the male capacity for sexual intercourse is far more limited than the female capacity. The popular notion is that marriage furnishes most of the necessary restraint, but this notion is false. As a matter of fact, there is much more incontinence within the holy bonds of matrimony than there is outside of wedlock. Many a man has had his career ruined because of the excessive drain upon his strength in endeavoring to satisfy the cravings of a highly sexed wife. There is no feasible legal method of preventing incontinence. The best preventives are the system of discipline and education briefly outlined above, and the public opinion with respect to a healthy and normal sex life for all which would develop as a result of this system.

With the knowledge and discipline derived from this system of sex education and training the adolescent would be adequately prepared

to begin the sex life. He or she would then begin a sex relation with the intention of developing the play aspect of sex to the highest possible degree, at the same time using contraceptive measures to prevent the relation from resulting in reproduction until it became fairly certain that the play function was developing in a full and permanent form. Thus would be prevented the deplorable condition, harmful both to parents and offspring, of a more or less permanent mating and reproduction without a development of the play function. This is a frequent result from the marriage of today, which is based upon no adequate testing of the fitness and the compatibility of the spouses for mating.

It is desirable that as soon as puberty and adolescence are passed and maturity has been attained the young adult should begin a sex relation. The exact age at which this point is reached cannot be stated, since it varies according to climatic conditions, racial traits, and individual peculiarities. Until this time is reached the parents or other natural guardians can in most cases furnish all of the restraint that is necessary. In some of the simpler communities of today and in many communities of the past this state of affairs has prevailed. It is one of the deplorable concomitants of our complex modern civilization that the usual age

for sexual mating has been delayed far beyond the natural age. The evil consequences from this condition have been described in the chapters on prostitution.

The first sexual union for the young adult should not be in the bond of an indissoluble marriage. It should be in the nature of a preliminary or trial marriage with a partner who gives promise of becoming a suitable mate for a permanent union. In view of the uncertainty of the outcome of this trial union it would be advisable ordinarily for the young couple not to become entirely independent of their parents until the union gives indications of becoming permanent. Furthermore, as I have already pointed out, contraceptive measures should be used to prevent reproduction until the play function develops in a strong and apparently lasting form.

Begun under such favorable auspices most of the trial unions would in all probability turn out successfully. But even those that fail would furnish their participants knowledge and experience which will aid them greatly in attaining success in the second or later trials. Thus the trial union would serve as a sort of preparation or novitiate for permanent marriage.[1]

[1] Trial marriage has existed at many times and places in the past. Several of these instances are described by H. Ellis, "Sex in Relation to Society," Philadelphia, 1910, Chap. IX.

THE FORCES FOR MONOGAMY

As I have already pointed out, promiscuity possesses a certain amount of charm for mankind, doubtless owing to the novelty of the pleasurable sensations derived therefrom. The tendency to promiscuity has at all times manifested itself in extra-matrimonial relations. It manifests itself to a smaller degree in group marriage. The male sex manifests it occasionally to a slight extent in polygyny, and the female sex more rarely in polyandry.

But in spite of this promiscuous tendency and these other forms of marriage, there are at least four reasons for believing that monogamy will always remain the prevailing form of permanent sex relation. In the first place, the approximate numerical equality of the sexes will always be a strong force for monogamy. In a society organized upon a democratic basis it will become more and more difficult for an individual to monopolize more than one member of the opposite sex. Polygyny and polyandry can be prevalent only when the sexes are for any reason not equal numerically, or when a favored class can enforce monopolistic rights.

In the second place, as I have already pointed out in Chapter VIII, sexual jealousy is probably a powerful force for monogamy. Whenever a sex relation is based upon a strong affection, neither party to the union is likely to

look with favor or to tolerate another sex relation for his or her mate.

In the third place, as I have also pointed out in Chapter VIII, the rearing of the young requires more or less permanent unions. Mutual parenthood is likely to make such a union monogamous. This is because mutual parenthood usually draws the parents closer together and reënforces the play function of sex, thus decreasing the desire for and excluding to a large extent the feasibility of another sex relation for either parent.

In the fourth place, the desire for companionship in old age is in some cases a factor for monogamy. In order to secure such companionship it is essential to form a strong union which is not likely to be broken before death. Such a union obviously cannot be obtained through promiscuity. It is not likely to be so strong in polygynous or polyandrous marriage. These considerations do not have much influence in the flush of early youth. But they acquire greater weight with advancing years. As human foresight increases, these considerations will doubtless have more and more influence upon sexual matings.

But, while these excellent reasons for monogamy exist, it is not to be assumed that monogamy should be imposed and enforced by law, conventional morality, and religion. It is such compulsion in marriage that has caused a vast

amount of unhappiness in the past. It is sure to do the same in the future, and will defeat its own ends even more than in the past.

When the young have been adequately educated and trained, and when women as well as men are economically independent, so that the sexes are on a equality in their freedom of choice, it will be safe to leave sexually mature adults free to choose any form of sex relation which they desire. A few will elect to remain promiscuous always in their sex life. But the majority will doubtless desire and seek a permanent relation.

FREE CONTRACTUAL MARRIAGE

The marital relation should become a genuinely free contract for those who desire to enter it. Thus the contract should specify the length of time the relation is to endure, that is to say, as to whether it is to be permanent or for a definite or indefinite term. The contract should specify whether or not the marriage is to be exclusive, that is to say, monogamous. For the reasons stated above the vast majority of individuals will doubtless choose to make their marriages monogamous and permanent.

But the law should permit other forms of marital relationship for the persons who desire them. Thus the marriage contract may specify that one or both parties to the union may have extra-matrimonial sexual relations. It may

specify that one or both parties may form other marital relations, thus becoming polyandrous or polygynous, as the case may be. Consequently, beside the prevailing monogamic type of marriage would arise a few polyandrous and polygynous unions, but these unions would doubtless always remain in a very small minority.

The contract could also specify as to whether or not reproduction is an object of a marital union, and as to what provision is to be made for the care and rearing of the offspring. The law would be justified at this point in insisting, in the interests of society, that adequate provision be made for the young.

Parental responsibility for offspring should always be enforced. But no distinction should be made in this respect between intra- and extra-matrimonial offspring. In other words, the distinction between legitimacy and illegitimacy should be abolished,[2] so that bastardy with all of the odious stigma which is attached to it would disappear from the face of the earth. As a matter of fact, owing to the development of the play function and the use of contraceptive measures, there would be few births which were not desired and which did not come to parents who were permanently mated, so that the vast major-

[2] In 1915 a law was enacted in Norway which abolished most of the legal distinctions between legitimate and illegitimate children. (See Katherine Anthony, "Feminism in Germany and Scandinavia," New York, 1915, Chap. VI.

ity of children would receive bi-parental rearing and few would be left to the care of the state.

The marital contract could also specify as to the distribution of property and income between the contracting parties. As it becomes more and more customary for women to earn their own living, economic dependency in marriage will diminish. It would be foolish to attempt to prophesy as to whether or not the time will ever come when it will be justifiable to forbid economic dependency in marriage when it is acceptable to the parties concerned. Under some form of socialism every person may be forced to earn his or her own living, so that there will be no parasitism of any sort. But until that time comes it will be possible for a man to agree to support a woman or for a woman to agree to support a man, when they desire to do so.

In fact, it should be possible for men and women to come to any agreement they choose in a marital contract, provided it is not contrary to the interests of society. Then when a contract is violated, it should be possible for the injured party to secure redress in the civil courts. If support is provided in the contract, there can be suit for non-support, but not otherwise. Sexual intercourse outside of marriage would be adulterous when in violation of the marital contract, but not otherwise. Adultery would not be penalized, but should be sufficient

cause for abrogating the contract when the injured party desires it.

This arrangement would solve the problem of divorce. A marital contract would be dissolved whenever both of the contracting parties agreed to such dissolution, or when one of the parties had violated it to such an extent as to give the other party sufficient grounds for abrogating it. Divorce would thus come about more or less automatically as the result of the termination of marital contracts.

In such an organization of sex relations as I have described, marriage would become a genuine free contractual relation. All persons entering upon this relation would fix for themselves the terms of their contract. This fact would increase greatly their sense of responsibility. They would no longer be able to blame coercive laws if their marital ventures failed. They would be compelled to realize that their success in marriage depended largely if not entirely upon themselves. They would be much more careful to know each other well before entering upon a binding contract. The preliminary or trial marriage would furnish them a means of acquiring this knowledge concerning each other.

To many persons it may appear that such an organization of sex relations will furnish a license for a sexual orgy. But this would be impossible in any civilized and enlightened com-

munity, because the lasting interests of suitable mating and reproduction would far outweigh for most individuals the ephemeral attraction of a temporary promiscuity.

But even if a small amount of sexual promiscuity resulted from this organization of sex relations, it could not possibly do as much injury to society as the sordid and degrading promiscuity of today. The sexual license which would arise from this future organization would have a frankness and spontaneity which would place it upon a far higher mental and social plane than the prostitution and much of the extra-matrimonial promiscuity of the present.

On the other hand, the organization of sex relations I have described would banish much of the misery of the vast number of mismated and unmated persons in our modern civilization. The unobservant person may be deceived by the artificial smile of frozen respectability which maintains a smooth surface most of the time over the marital institutions of today. But to the observer with mental and moral insight who has looked into many lives and homes it is obvious that many millions of men and women are being marched annually to the hollow sound of the wedding bells and the unctuous tones of the priest and parson into an indissoluble or almost indissoluble wedlock, there to lie upon a Procrustean bed of discomfort and frequently

of torture. When men and women come to know themselves and each other, most of the mismatings can be obviated, while many of the numerous unmated can secure suitable mates.

THE LIMITS OF JUSTIFIABLE SEX REGULATION

Let us now consider what criminal offenses relating to sex would remain if the social institutions relating to sex were reorganized in the manner described. It is obvious that attempts to force any one into a sex relation should be penalized. Thus rape, forcible abduction, and attempts to force any one into acts of sexual perversion would be crimes. It would also be well to penalize attempts to incite a minor to acts of sexual perversion.

Any attempt to secure a sexual relation on false pretenses should be penalized. Thus seduction, and bigamy, where the innocent party had not been informed of an already existing marital relation of the offender, would be crimes. It may also be advisable to make criminal the concealment of a grave contagious disease which may be readily transmitted in the sex relation.

Sexual relations between persons closely related by blood should be penalized. The reason for this is not that there is anything biologically harmful necessarily in incestuous intercourse, but because it is socially desirable that close blood relationships (such as parent and child,

brother and sister) should not be confused with sexual relationships.

While the normal hetero-sexual relation is doubtless the most desirable, it is wholly indefensible to penalize homosexuality, sexual fetishism, and other variations from the normal. The unfortunate persons characterized by these sexual variations are not usually responsible for them, and frequently are very useful members of society.[3] They should not be molested by the law, unless they attempt to force their practises upon others.

The use of contraceptive measures should not be penalized but should be encouraged by the government, as is already done in a few civilized countries, such as Holland.[4] Abortion should not be penalized in most cases today, for it is almost invariably the fault of the law in forbidding the use of contraceptive measures and not the fault of the individual. When contraceptive measures are freely permitted, it may become justifiable to penalize abortion where it is due to inexcusable negligence in failing to use contraceptive measures. However, this is a question which will have to be decided in the future.

Bigamy, adultery, fornication, concubinage,

[3] It is impossible to cite here the extensive literature upon these sexual variations. Suffice it to mention from the English writers the names of Havelock Ellis and Edward Carpenter.

[4] See, C. V. Drysdale, "The Small Family System," London, 1913, pp. 59–62.

and prostitution will, of course, disappear as criminal offenses. Divorce will become free and there will no longer be any legal stigma upon bastardy. When a strong public opinion with respect to a normal sex life for all has developed, pruriency of mind will disappear, and along with it the crimes incidental to sex. Thus indecency, immodesty, obscenity, etc., will be wiped out of the penal code.

It is needless to say that this new organization of sex relations cannot come into being in a day, nor can all of its details be determined upon at present. Before it can be fully developed many other important social changes will have to take place. The principal changes doubtless are the economic changes which will obviate late marriages. But I have, nevertheless, considered it worth while to outline it here as an ideal, because it is of assistance in securing a true perspective for the study and criticism of the existing system of sex relations.

CHAPTER XIX

THE DEVELOPMENT OF PERSONALITY

It is indeed a pitiful sight to watch mankind grope and stumble towards the goal it has unconsciously set before itself, namely, the complete and satisfactory expression of human nature. Man's career upon this planet is strewn with blunders and failures in his effort to attain this goal. He has sought alcohol, poisonous drugs, and other noxious substances in attempting to secure relief from the pain and misery of his existence.

In lieu of the joyous adventure which an ideal human life would be, he has sought the meretricious excitement of games of chance in his hours of recreation and of cunning speculation in his economic life. Awed by the apparently mysterious nature of sex and fearful of the pitfalls in his sex life he has, on the one hand, erred in his bungling organization and regulation of sex relations, and, on the other hand, has precipitated himself more or less unwittingly into the most unspeakable debaucheries.

An excessive degree of uniformity is imposed upon human nature by fashion, needless customs, conventional morality, formal courtesy,

and institutionalized religion. By means of these fetters which it has blindly forged for itself mankind has checked the spontaneous expression of human nature and has retarded the development of personality.

Mankind uses various means to escape occasionally from the drab uniformity which it has foolishly imposed upon itself. Some of these measures are innocuous, such as costume dances, or comparatively harmless, such as infrequent sprees. But many of these methods are very harmful, such as the various forms of debauchery, while war doubtless serves in part as a means of relief from this uniformity.

Consequently, this needless uniformity causes many evil results. A vast amount of suffering arises from the various forms of debauchery. The repression of innocuous personal idiosyncracies by the rigid rule of fashion and custom causes much needless discomfort and irritation.

A vast amount of human talent is suppressed by this uniformity. This means an enormous social waste, for this talent would be very productive if it were given an opportunity to express itself. Social waste results in many other ways from this needless uniformity. For example, the uncomfortable and unhygienic dress prescribed by fashion and custom materially diminishes the productiveness of society.

The human and social phenomena described

in this book reveal the complexity of man's nature. They indicate some of the conflicting elements which give rise to the most serious of human and social problems. These elements are instincts and emotions which are not well adapted to each other and which the intellect is trying to guide and harmonize with more or less lack of success.

Ignorance of this complexity gives rise to many unilateral characterizations of human nature. It is said that man is unsocial by nature, or that he is a social animal. It is said that man is egotistic, or that he is altruistic. As a matter of fact, the individual struggle for existence and the struggle of the species for survival have given rise, on the one hand, to unsocial and egotistic traits, and, on the other hand, to social and altruistic traits.

It is said that man is promiscuous by nature, or that he has a monogamous instinct. We have seen that man is neither promiscuous nor monogamous by nature. Some of his traits impel him towards promiscuity, while other traits give rise to a strong monogamous tendency.

Thus it is that these conflicting elements give rise to the clash between individual and social interests and to the stress and strain within man's own nature. It is, therefore, of supreme importance that an intensive study be made of the instinctive, affective, and intellectual aspects of the mental makeup in order to effect

the most feasible adjustment of the conflicting elements in human nature.[1] Only through the enlightenment of self-knowledge can man attain to the highest possible degree of outward and inward harmony.

In closing this book I shall merely offer a few general suggestions as to how mankind can abolish this excessive uniformity and thus more nearly attain the goal it is seeking, namely, a complete and satisfactory expression of human nature. In the first place, men and women should understand human nature much better than they do now. In the second place, they should be able to recognize the intrinsic relations between conduct and its consequences. In the third place, a favorable environment should be provided for the development of personality.

The prevailing educational and disciplinary system fails to attain the first two of these ends. Our education is not sufficiently scientific to furnish an adequate comprehension of human nature. Our discipline is dominated by a standard of formal courtesy which requires conformity in many non-essentials, but gives little indication of the intrinsic relations between conduct and its consequences. A scien-

[1] I have furnished a comprehensive description of these aspects of the human mind in my work entitled "The Science of Human Behavior, Biological and Psychological Foundations," New York, 1913.

tific education and a standard of genuine courtesy are needed to teach the young to know themselves, and to recognize the intrinsic relations between conduct and its consequences.

Under the prevailing system symbolic interpretations and meanings are encouraged, while the genuine significance of many of the aspects of life are not recognized. Mental activity is thus discouraged and the inherent inertia of the mind is reënforced. The human mind thus sinks into grooves and ruts in its thinking processes instead of becoming more flexible.

A favorable environment would develop personality and thus utilize all of human talent. Such an environment would satisfy the powerful fundamental impulses of hunger and sex. It would furnish ample scope for the impulse to bodily and mental activity. It would furnish adequate opportunity for coming into contact with nature and for gratifying esthetic tastes. It would not suppress harmless personal idiosyncrasies.

If these great changes are accomplished, the social regulation of the individual will be placed upon a genuine ethical basis in the sense that the interests both of society and of the individual will be safeguarded. This goal cannot be reached until a truly democratic organization of society has been attained. In a democracy small favored classes which can exploit the remainder of society will not be tolerated, and

unquestionably invasive conduct will be strictly regulated and sternly repressed by society. On the other hand, in an enlightened democracy excessive restrictions and an irksome uniformity will not be imposed upon individuals in the name of animistic bogies and of the fetishes of convention, custom, and fashion.

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